



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 16th October 2019

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Present:

Richard McMahon, Esq., Deputy Bailiff and Presiding Officer

Law Officers

Miss M. M. E. Pullum, Q.C. (H.M. Procureur);

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, J. Kuttelwascher, D. A. Tindall,
B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel,
M. K. Le Clerc, J. I. Mooney

St Sampson

Deputies L. S. Trott, P. R. Le Pelley, J. S. Merrett, G. A. St Pier,
T. J. Stephens, C. P. Meerveld

The Vale

Deputies M. J. Fallaize, N. R. Inder, M. M. Lowe,
J. C. S. F. Smithies, Deputy S. T. Hansmann Rouxel

The Castel

Deputies R. Graham L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. McSwiggan,
D. de G. de Lisle, S. L. Langlois

The South-East

Deputies H. J. R. Soulsby, H. L. de Sausmarez, P. J. Roffey,
R. G. Prow, V. S. Oliver

Representatives of the Island of Alderney

Alderney Representatives S. Roberts

The Clerk to the States of Deliberation

S. M. D. Ross (H.M. Senior Deputy Greffier)

Absent at the Evocation

R. M. Titterington, Q.C. (H.M. Comptroller); Alderney Representative A. Snowden (absent d'Ile);
Deputy L. B. Queripel (indisposé); Deputy M. P. Leadbeater (relevé à 10h 49)

Business transacted

Evocation	2253
Convocation	2253
Statements	2253
General Update – Statement by the President for Home Affairs	2253
General Update – Statement by the President of the Overseas Aid & Development Commission.....	2264
Questions for Oral Answer.....	2268
Arts budget – Annual grant and ticket prices for St James' Concert Hall and Assembly Hall; importance of funding arts variety	2268
New Wrightbus StreetVibe bus fleet – Growing passenger numbers; effects of Wrightbus' uncertain future on Island fleet; replacement of traditional vehicles in service; reintroduction of double-deckers; service operator tendering process.....	2272
Billet d'État XX.....	2277
Elections and Appointments.....	2277
I. Employment and Discrimination Tribunal – Appointment of Convenor – Mr Jason Hill appointed.....	2277
Legislation Laid Before the States	2278
The Water Charges (Amendment) Regulations, 2019; The Wastewater Charges (Guernsey) Regulations, 2019; The Waste Disposal and Recover Charges (No. 2) Regulations, 2019; The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 5) Regulations, 2019	2278
Legislation for Approval	2278
II. The Population Management (Guernsey) (Amendment) Law, 2019 – Approved.....	2278
III. The Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019 – Approved	2279
IV. The Public Holidays Ordinance, 2019 – Approved.....	2285
V. The Probation (Bailiwick of Guernsey) Law, 2018 Commencement Ordinance, 2019 – Approved	2285
Procedural	2286
<i>The Assembly adjourned at 12.28 p.m. and resumed at 2.30 p.m.</i>	<i>2286</i>
VI. Contributory Benefit and Contribution Rates for 2020 – Propositions carried	2286
VII. General Pilotage – Retirement Age of General Pilots – Propositions carried	2318
VIII. Proxy Voting for Parental Absence – Debate commenced.....	2322
<i>The Assembly adjourned at 5.34 p.m.</i>	<i>2326</i>

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States of Deliberation

The States met at 10.37 a.m.

[THE DEPUTY BAILIFF *in the Chair*]

PRAYERS

The Senior Deputy Greffier

EVOCAATION

CONVOCAATION

The Senior Deputy Greffier: Billet d'État XX of 2019. To the Members of the States of the Island of Guernsey, I hereby give notice that a meeting of the States of Deliberation will be held at the Royal Courthouse on Wednesday, 16th October 2019, immediately after the meeting of the States of Election, convened for at 9.30 a.m., to consider the items listed in this Billet d'État, which have been submitted for debate.

5

Statements

COMMITTEE FOR HOME AFFAIRS

General Update – Statement by the President for Home Affairs

The Deputy Bailiff: Good morning, Members of the States. The first item of business today is a general update from a Statement of the Committee *for* Home Affairs. I invite Deputy Lowe to make that Statement.

10 **Deputy Lowe:** Thank you, sir.

It was only three months ago that I updated the States and the wider community on the current matters which have been progressing within Home Affairs, so what can I add or cover? I will start with Brexit. There is still a potential that the UK could leave the EU without a deal.

15 Some are of the view that this is all hype. However, I suspect those same people will be the first to criticise if the goods they need are being held up at the borders. It is therefore imperative that we are all as prepared as we can be. From a Home Affairs perspective, this is going to mean a different border management regime which will be more onerous than that which we have enjoyed until now while the UK has been part of the EU.

20 Law Enforcement Officers and Emergency Planning are working full stretch to ensure the Bailiwick remains safe and secure and to seek to foresee issues which may arise from a no-deal exit on 31st October.

25 Next I would like to mention the recently published annual report from Bailiwick Law Enforcement. The report stands as a testimony to the excellent and dependable service which we as a Bailiwick receive from the dedicated officers who play a key role in ensuring this is a safe and secure place to live.

30 It is therefore very disappointing to see the stark rise in the number of assaults on police officers, and to note that half of all offences are drink-related. It would be too easy for this Assembly to sit back and see this as someone else's problem. The fact is it is ours. Excess alcohol consumption leads to disorder, violence, injury, illness and disruption of lives and it is this Assembly, through its Committees, that can change the situation. As an example we have seen the effectiveness of the introduction of minimum pricing for alcohol in Scotland and it may be the same needs to be explored here. We may also need to consider whether late night drinking in pubs and clubs should be reassessed.

35 The Law Enforcement Annual Report has highlighted some of the very real negative impacts on our community of excess alcohol consumption and it behoves us as an Assembly, as Committees and as individual Members to work together to tackle it.

40 I now move on to the Justice Review. Members will be aware that as part of the Justice Review there is an ongoing consultation to capture the views of interested members of the public and their understanding of what Justice means to our community. The survey runs until 25th October and I would encourage Members and the public to take this opportunity to have their say.

45 I will re-iterate once again how important justice is for any society. This is about fair treatment for all, and the rules and structures by which we deal with those who choose not to respect the rules. The Bailiwick's desired framework for justice needs to be appropriate to our circumstances and the will of the people.

50 The Justice Review we are leading is looking at the systems, structures and approaches, which we currently use, considering what opportunities might exist to improve on what we have, both in terms of outcomes and general efficiency, and providing the States with suggestions for discussion on how it might evolve and change. In this respect the Committee will be submitting a policy letter this December.

55 Of course the debate which will follow will not mark the end of the justice policy journey but rather it will be a case of taking stock of where we are and for the States to determine where we go in the years ahead. Work on the Justice Review has been quite intense and in this respect the Committee would like to thank all the States' Committees, officers, third sector agencies and members of the public who have assisted and participated in the review so far.

60 Next the Governance Report. The Committee is sometimes asked about the progress with the implementation of the Governance Report from earlier this year. While we all had, and to a certain extent continue to have, reservations over the way the report was produced, the Committee has nonetheless been actively working on implementing the recommendations. A key element has been the introduction of a written protocol dealing with the relationship between the Committee and the Head of Law Enforcement. This was signed on 25th July 2019 and, to ensure it remains relevant, it will be reviewed on an annual basis.

65 In response to another of the recommendations, the Committee has agreed to a standardised structure for Committee Members to respond to complaints received by them from the public relating to the various operational services. Furthermore, as recommended, the Committee has reviewed the template for Committee minutes and determined that the style of the minutes, which are broadly the same as a number of other Principal Committees, remains appropriate for the Committee's needs. The Committee had also ensured, prior to the publication of the report, that service leads have access to the Committee minutes and papers.

70 I was also intrigued to receive a letter recently from the Scrutiny Management Committee proposing that Home Affairs attend yet another of its hearings. We will of course assist but with the various external reviews to which we have submitted ourselves and the multiple Scrutiny hearings, it does feel as though Home Affairs is the most scrutinised Committee of the States.

75 So where are we with HMIC? The Committee receives regular updates from the Head of Law
Enforcement on progress with the implementation of the HMIC report. I am pleased to advise the
Assembly that work to complete the recommendations is going well. We are pleased to confirm
that HMIC will be returning in early December to provide an independent and objective view on
how the areas for improvement and recommendations have been acted upon. Throughout, the
Committee has focussed on governance, ensuring there is the necessary clarity between the
80 respective roles of the Committee and the senior management of Law Enforcement. A new
approach has been put in place and is working well.

It is the Committee's intention to publish this follow-up report. The Committee is, however,
conscious that decisions in next month's Budget debate may not help in satisfying HMIC. By this I
am referring to the HMIC conclusion that there was a lack of investment in training and
professional development of Law Enforcement staff.

85 To address this, Home Affairs included a modest bid of just over £100,000 in its Budget
submission, but regrettably from seeing the Budget proposals it is clear that the Policy and
Resources Committee does not share the Home Affairs view on this matter and is not
recommending that the money be made available. This is something we will need to explain to
HMIC.

90 Home Affairs' financial position and the future challenges of keeping the Island safe and secure
were reflected in its 2020 Budget submission. Home Affairs has ensured services continued to be
pared back to the minimum. The Budget proposals issued last week confirm that the essentiality
of most of the additional funding identified by Home Affairs has been recognised. However, as I
have just shown in respect of training, there are a few areas where provision has not been made.
95 The Committee is considering the Budget proposals in more detail but at this stage I need to flag
up that the maintenance of a safe and secure Bailiwick is of paramount importance and it is not an
area where the Committee considers it appropriate to compromise.

During my last update in July, I mentioned our joint working with Jersey to create a Computer
Emergency Response Team, known as CERT. A request for funding of the CERT project has been
100 identified in the Home Affairs' 2020 Budget submission and, subject to the States' approval of the
Budget, will be commenced as soon as possible.

The CERT will monitor and analyse cyber threats and support businesses and Government
across the Channel Islands by ensuring there is a co-ordinated response capability to significant
cyber-attacks. The CERT will however not only be there to assist when disaster strikes but also to
105 raise cyber threat awareness across the whole community.

I now move on to JESCC. The Joint Emergency Services Control Centre continues to provide an
excellent and fully co-ordinated emergency response service. It has stabilised well from its early
days and is functioning as it should and is serving the Bailiwick well. The staff are handling some
of the most traumatic and emotionally challenging calls in a calm and professional manner, and
thereby often helping save and sustain lives until the point where the emergency services are on
110 the scene. It is a perfect example of cross organisational working. However, as with any operation
the funding is tight and it is so important that the costs are appropriately shared by all the
partners.

I move on to data protection. As Members may be aware, discussions are continuing with the
115 Data Protection Authority and the Policy & Resources Committee to find the best way to
introduce a universal annual data protection licence fee which is modest and unbureaucratic.
Apart from very small businesses and charities, most of those who will need to have a licence will
be Guernsey registered companies. We therefore need to help business owners and managers to
pay the fee with the minimum of fuss. We had explored the possibility of it becoming part and
120 parcel of the annual validation process of the Guernsey Registry but it became apparent from our
colleagues at Economic Development that this could have unforeseen complications.

We have therefore moved to exploring an alternative which preserves the independence of the
Guernsey Registry but seamlessly allows company owners to continue, after having completed

125 their annual validation, through to the Data Protection Office website to pay their licence fee,
unless they declare they are exempt. All this is taking time to develop and will probably require
some legislation. This does mean that for 2020 the States, as required under the Law, will have to
continue to fund the Data Protection Authority from general revenue as part of the Budget.

I could of course talk much further on many policy areas and services under the Committee's
mandate, but it is very much a case of business as usual. And of course I am conscious of the
130 clock. I am happy to take questions but would add that if Members wish to learn more about a
particular area of Home Affairs, please let me know and I will arrange for a conversation with you
in greater depth than would be possible in the Assembly.

Thank you, sir.

135 **The Deputy Bailiff:** Is it your wish, Deputy Leadbeater, to be relevéd?

Deputy Leadbeater: Yes, please, sir.

The Deputy Bailiff: Now, Members of the States, there is an opportunity for you to ask
140 questions on any matter within the mandate of the Home Affairs Committee, except something
which is part of another item of business at this meeting.

Deputy de Lisle.

Deputy de Lisle: Thank you, sir.

145 Some, particularly residents in the centre of Town, believe that licensing hours are too liberal
and should be tightened and that to be considered, to counter rowdyism and other problems on
Friday and Saturday evenings, particularly in Town. Is this something that is being considered by
the Committee *for* Home Affairs?

150 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: I thank Deputy de Lisle for his question.

Deputy de Lisle, as I mentioned in my Statement, it is a concern for the Police, but equally
Health & Social Care. The Drug and Alcohol Strategy comes under them and I am aware that there
155 is a review going on, working between the Committees, as well, where there will be feedback from
Law Enforcement. As I said in the Statement, it is a problem for all of us that we need to resolve to
try and address that we do not have Law Enforcement facing these issues on a Friday and
Saturday night, especially on Friday and Saturday night, and there is a cost to the States and our
community.

160 **The Deputy Bailiff:** Deputy McSwiggan.

Deputy McSwiggan: Sir, Deputy Lowe is quite right to highlight a rise in alcohol-fuelled
165 violence against Law Enforcement Officers, and that is inexcusable. I trust she will also
acknowledge that we know that the burden of alcohol-fuelled abuse and violence falls within the
family home and I wonder if she could give us an update on what additional priority her
Committee might be giving to actions to address domestic abuse, in order to ensure that
everyone can feel safe at home?

170 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, Deputy McSwiggan, for your question.

175 Certainly, with regard to violence in the home, the Law Enforcement and indeed this States, we do not sign up to that at all and we will do anything we possibly can. Of course the Domestic Abuse Strategy comes under Home Affairs and we have updates from them on regular occasions.

180 Again, this is an issue which I think cannot be ignored and we also need to do whatever we can to ensure that our public and our community are protected and it is not something we take lightly. Anything we can do, along with Health and indeed with the States, we do not want to see the States baulking. If we come back or if Health comes back, we have got to recognise there is a social culture issue here with alcohol on this Island.

The Deputy Bailiff: Deputy Graham.

Deputy Graham: Thank you, Mr Deputy Bailiff.

185 Would the President of Home Affairs kindly update the Assembly on the progress, if any, made in the provision of IT across the whole Home Affairs theatre, if I may put it that way, particularly those areas that previously have been exposed as particularly vulnerable, particularly in terms of the effect on operational efficiency?

190 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: I thank Deputy Graham for the question on the IT. As he will remember and most Members will know, there were serious issues with the IT, which were recognised under the HMIC Report. Following that, there were also other serious problems with the IT. Only a matter of a few months ago the IT team – this was before Agilysis came on the scene – spent all day and evenings and weekends trying to unravel what had actually happened to the system. The system has just failed and is failing.

200 What they have done, I think the expression would be, is they have patched it up, they have made Agilysis very aware that it is a priority. We have to make sure that we have access to the IT under Law Enforcement to protect this Island to make sure it is safe and secure. It is something we keep asking for updates on and we keep pushing but there is the support by Agilysis and indeed by the IT within Frossard House.

The Deputy Bailiff: Deputy Roffey.

205

Deputy Roffey: Thank you, sir.

210 A few weeks ago the President informed this Assembly that the comprehensive Review of the Population Control Regime would be expected within a couple of months, I think she said. Could she update us exactly when we can expect that report to be made public and when it is likely to be debated by this Assembly?

The Deputy Bailiff: Deputy Lowe.

215 **Deputy Lowe:** Indeed, I can, Deputy Roffey, and I thank you for that question. In consultation with P&R, a decision was taken to just wait to see what is happening about Brexit, because it may mean that we might have to change what is actually in the report and it would be irresponsible to bring the report sooner when we are actually only weeks away, or only a fortnight away, or possibly days away, now, of knowing what exactly what will happen. It may be the report stays exactly the same, but both the P&R Committee and Home Affairs agreed that we would park it until the end of October until we knew a little bit more.

220

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir.

225 Referring back to the earlier questions of Deputies de Lisle and McSwiggan, relating to alcohol, licensed premises may contribute to the rowdiness and other issues identified by Law Enforcement, but surely the relative cost and availability of alcohol in supermarkets, local shops, off-licences, garages etc. also plays a role? Does Home Affairs consider a holistic look, beyond established bars and clubs is necessary to tackle the alcohol problem in a more general way?

230

The Deputy Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, Deputy Gollop.

235 As I said before, the Drug and Alcohol Strategy is actually under HSC, but of course there is the link because we have to pick up the pieces of what is happening out there in our community. If youngsters – or not even youngsters – are rowdy in Town that does not mean to say that there are problems with the alcohol.

240 It can be that you are narrowing a confined area where, many years ago, there used to be clubs outside of St Peter Port but now so much is actually in St Peter Port that it can appear quite intimidating to some people. It does not necessarily mean they are causing problems through drink, it just means they are having a good time and not necessarily drink-related. I think we have to separate that. Regarding the supermarkets and the deals on the supermarkets, as I say, that does very much come under HSC regarding the Drug and Alcohol Strategy.

245 **The Deputy Bailiff:** Deputy Soulsby.

Deputy Soulsby: Sir, yes, Deputy Lowe has mentioned a number of times how the Drug and Alcohol Strategy now sits with Health & Social Care and she is right and Health & Social Care has done quite a lot to investigate that particular aspect. I would say minimum unit prices require far more than 50p that Scotland use. That aside, does she not think, bearing in mind the findings of the HMIC Report, that the time has come for domestic abuse legislation in Guernsey?

The Deputy Bailiff: Deputy Lowe.

255 **Deputy Lowe:** Yes I do, Deputy Soulsby.

The Deputy Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

260 Deputy Lowe mentioned the rather large sum of money that is having to go to the Data Protection Authority, as identified in the Budget, and describes the reason why is due to the fact that the charging on annual validations was inappropriate. Would the President of Home Affairs agree with me that actually going through the annual validation would not capture all those who are established in the Bailiwick? In fact it is much wider than Guernsey companies? Why can we not use the current online registration system, which is on the Data Protection Authority website, for which most people pay their £50 annually and will continue to do so? Why can't they expand and ensure that is the funding?

270 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, sir.

There are negotiations going on with the Data Protection and indeed with Home Affairs and indeed Economic Development to try and find a way to be able to address this. There had been an

275 agreement. Deputy St Pier attended a meeting with myself with Data Protection, with the President, as well, of Economic Development, when it was put to the Committee.

280 What had been agreed was rejected, so they have had to start again to try to address that and try and find a way forward because the ideal way was through the Guernsey Registry. As I mentioned before it is now looking like we could use a link through there back to the Data Protection Office to make it as simple as possible for businesses. What we are trying to do, and indeed the States should be doing, is trying to make it as unbureaucratic as possible for businesses and to encourage businesses to comply with the data protection.

The Deputy Bailiff: Deputy Lester Queripel.

285 **Deputy Lester Queripel:** Sir, in relation to the President referring to the Justice Review, the Assembly recently received an email from a member of the public expressing concern about parental alienation here in the Bailiwick. I replied to the email, informing the sender that the second phase of the Justice Review is now under way. I advised him to submit their views and express their concerns via the consultation. However, I am wondering if I could have perhaps
290 informed them of any other procedures that might be available to them. Can the President allay my concerns and assure me that the best way for members of the public to express their concerns is indeed to submit their views to this consultation?

295 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: Absolutely, Deputy Queripel, and if we can encourage as many people as possible to get involved with that. It is a simple survey, which they have been asked to take part in. The actual review itself, there has been so much consultation, with so many of the agencies,
300 with the States' Committees as I mentioned before.

Indeed this is so important, because this is the time for us to try and see what we can do, to bring back to the States, for the States to decide on the strategy of how to take forward the justice review. Again, any States' Member, all of you, I ask you, because you get contacted by constituents, to actually fill in the survey of how you think it is appropriate and how you would
305 like to see it from the feedback you have had from the people that have contacted you.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Thank you again, sir.
310 I think we would all support that we should have, effectively, zero tolerance towards any assaults on the Island, especially on officers of Law Enforcement. But the call from a senior member of Law Enforcement for robust sentencing of course asks another question: where does the Committee stand on balancing the need for deterrents of robust sentencing in a criminal justice policy of looking for, perhaps, alternatives, to traditional sentencing and rehabilitation?

315 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, Deputy Gollop.
320 Alternative sentencing is going to be part of the review that is taking place but, regarding attacks on the Police, I am grateful to the Court process and the Court themselves for sending out a very clear message that that is not acceptable on this Island to assault police officers who are here, on this Island, to make us safe and secure, to have to face the violence that they have been facing in this last year and I thank the Courts for their support in dealing with that and sending out a message: that is not good enough.

325 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Sir, following on from the answer the President gave to Deputy Roffey's question earlier about population management, bearing in mind the States were told last year that the latest the review that would come back would be in March, and that is now seven months ago, surely the President is able to tell us, Members of the States, in early course, with what would happen if Brexit goes ahead, what would happen if Brexit does not go ahead, what their proposals are? She cannot be sitting there with a blank page and can she therefore update us further?

335 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: Well if I could solve Brexit, Deputy Ferbrache, and tell you the outcome of Brexit, I would be in Brussels actually sorting it out. But I am not. I am here trying to establish what we can actually do when we know. If the UK do not know what they are doing, I do not think there is much hope of us knowing or being psychic and knowing what they are putting forward. It could make a difference. If it stays the same, well obviously that report will come forward, but it was an approach to Home Affairs from P&R to ask if we were prepared to wait until the exit of Brexit and we knew what was going to happen and we were happy to comply with that.

340 There was a Brexit Working Group. I was not on that, my Vice-President was on that and the previous Vice-President, Deputy Prow, was on that, who compiled that report that was going to come forward to this States. But we do anticipate getting it forward as soon as is reasonably possible. But I think if we actually brought it in its current form and find that there is something that is completely different, I do not think that would have been very clever or appropriate.

350 **The Deputy Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you very much, sir.

355 We have seen shops in St Peter Port putting up signs to say that they are closing because they cannot find staff and we have all had representations from hoteliers and other groups saying they have problems with recruitment and retention. If the President was to proportionately ... for example, is the problem 30% Brexit, along with 30% exchange rate and possibly 30% population management? What weighting would she put on the population management element with regard to difficulties in employing at the moment?

360 **The Deputy Bailiff:** Deputy Lowe.

Deputy Lowe: The feedback that we have had at Home Affairs, through the Population, Employment and Advisory Panel (PEAP), and indeed a meeting that I was asked to attend at Chamber and I have also met recently with the hospitality rep that is on PEAP so there have been few meetings of late in this last week, it is very clear by the majority of those that have given us that information it is not the population management that is causing a problem, there are just not those people around to be able to come and take up that work.

365 If you watched the news over the last week, Jersey is in a far worse situation than we are and the same with the UK. If I could magic up people to actually come here and work and to keep this Island thriving, I would do so, but I think this again is an area where Skills Guernsey comes in and tries to do what we can to train the people on Island to fill those spaces and there is a good working relationship between the hospitality representative and indeed Population Management on the facts, rather than the myths out there.

375 **The Deputy Bailiff:** Deputy Tooley.

Deputy Tooley: Thank you, sir.

380 Bearing that in mind and I appreciate what Deputy Lowe is saying, that actually there is a
general shortage of people who want to take up the kind of positions that we are desperate to fill,
and so on, does the President not agree with me that, regardless of what happens with Brexit,
because, as you say, as Deputy Lowe says, Brexit is a very small part of this problem, is there not a
sense then perhaps that, regardless of what happens with Brexit, we need to look at how our
population management is working when we have staff on-Island who want to do these jobs, who
are willing to do these jobs, who are not looking to set up permanent residence on-Island, but
who would like to stay longer than the permits are currently allowing them to do, in order to
385 continue serving our community?

The Deputy Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, Deputy Tooley.

390 I think it was the last States' meeting when I had many questions on population management
and I advised the States I think it is time there was a presentation for Hon. States' Members
because you will be able to hear directly from Population Management officers how flexible they
actually operate, how they actually give extensions, as well, to the permits.

395 I am sorry if the facts do not help the stories that are going around and the fiction that is
going around. I cannot do much more about that and I really think there is a balance here that
needs to be known, that if anybody is actually closing Guernsey down or putting people off it is
some of the messages that are coming out. Not necessarily the States' Members but some in the
industry.

400 We do have a flexible population management regime and the feedback that, as I have said I
have had before and I have tried to express here in the States, it is not perfect, absolutely it is not
perfect. But population management is not the reason for people not coming here to work.

The Deputy Bailiff: Deputy Merrett.

405 **Deputy Merrett:** Thank you, sir.

I wonder if the President agrees with me that both Brexit and the exchange rate may not be
without our control, whichever negative that is, the Population Management Law is, so would the
President agree that is one mechanism that we can effect, we should effect and we should be
listening to the very genuine concerns some of our industries have and ensure that it is flexible?

410

The Deputy Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, Deputy Merrett.

415 The record has stopped for me. They have got a population representative on hospitality who
meets with us, he met with the Committee only a matter of two or three weeks ago, had another
meeting with him again this week to follow-up some negative reports that were coming out from
some in hospitality who, as I have said in this Chamber, you can take a horse to water but you
cannot make it drink. It is important that those in hospitality get engaged with the hospitality rep
on PEAP and indeed with population management and find out the flexibility of the Law, of what
420 can be achieved for their business.

The Deputy Bailiff: Deputy Inder.

Deputy Inder: Sir, thank you.

425 Deputy Lowe, just so I am absolutely clear, are you telling the Assembly that the rep from the
Chamber of Commerce told your Population Management Committee that the Population

Management Law had no effect on the transfer and the rotation of staff in the Island? Just so I am clear, is that exactly what they said, the Population Management Law has no effect whatsoever on the ability for people to work and come and go in this Island?

430

The Deputy Bailiff: Deputy Lowe.

Deputy Lowe: I think there needs to be a bit more clarity here. There is a hospitality rep on the Chamber, who came and met myself and some of the staff, and he brought other people along as well, last week. The hospitality rep on the Population Employment and Advisory Panel is a different person.

435

That is the one which hospitality is supposed to be in contact with and the States, in here, made that decision that the Population Management Law was flexible, must be flexible, but it is on evidence and the evidence has to be proven to the population employment representative on hospitality. That is the area and the right person to get in touch with and we have a very good close, working relationship with him. He has actually carried out a survey as well, amongst those in hospitality.

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He has come forward with some ideas to us, to ask us what we actually think about it and we are very encouraged by the working relationship with the Population Employment Advisory Panel hospitality representative and working with him and one of the areas that we are trying to do and speed things up, because again this is – and I mentioned it at the last States' meeting – there is this misunderstanding with the population management and immigration and people are mixing them up. So when you hear on the radio it is taking nine months to get somebody here, that is not right on population management at all. The permits are a lot quicker and it is not really nine months on immigration either. The problem that we have with some of the delays –

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The Deputy Bailiff: Deputy Lowe, your time is up.

Deputy Lowe: Alright then. Thank you, sir.

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The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Can I ask the President for an update on the community policing initiative? I understand and I note more police presence during the day in Town, but I am not sure about the current situation and the resources with respect to the rural parishes and I would like her to clarify what the situation is with regard to community planning in the rural parishes.

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Thank you, sir.

The Deputy Bailiff: Deputy Lowe.

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Deputy Lowe: Thank you, Deputy de Lisle.

I would love to be able to answer that but I cannot. That really is operational. I can get that information for you and I can share it with you and I will share it with the rest of the States' Members as well, once I have spoken to the Head of Law Enforcement what the position is regarding community policing.

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The Deputy Bailiff: Members of the States, I am minded to continue questions to the President of the Committee *for* Home Affairs, so Deputy Tindall.

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Deputy Tindall: Thank you, sir.

It is in response to the answer that the President gave with regard to the Data Protection Authority. I do agree with the President that it would make it easier for businesses, but would the

480 President not agree that relatively few of those businesses that need to be registered that need to be paid a fee actually go through the Guernsey Registry and that, to make it easier, surely it would just be a question of referring to the website odpa.gg/online-registration where they can pay their £50 fee now?

The Deputy Bailiff: Deputy Lowe.

485 **Deputy Lowe:** Thank you, Deputy Tindall.

I can tell you are frustrated from what is happening with data protection and how it is supposed to operate. The States made a decision that the byelaw, that we would pick up the costs of data protection until they found a mechanism that would be reasonable and unbureaucratic. There are small businesses and indeed charities that are exempt at this moment in time and that is good news because we do not want to make it too complicated for the smaller businesses. But I hear what you say and I will feed that back to the negotiating team, who are working with the Data Protection Office and indeed with Economic Development, P&R and indeed Home Affairs.

495 **The Deputy Bailiff:** Deputy Mooney.

Deputy Mooney: Yes, sir. I would just like to confirm that the hospitality group told the rep that they did not agree with his reporting to PEAP and I have seen an email confirming this. Thank you.

500 **The Deputy Bailiff:** Is there a question there?

Deputy Lowe: No.

Deputy Mooney: Just stating a correction of the facts.

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The Deputy Bailiff: You do not have the ability, Deputy Mooney, during questions, to correct anything, but you could have done it as a question: does the President agree?
Deputy Green.

510 **Deputy Green:** Sir, Deputy Lowe was kind enough to mention the fact that my Committee has recently written to her Committee about holding a public hearing, possibly later on this year or early next year, about the progress being made, or otherwise, about the implementation of the recommendations in both the Professor's State Governance Review and also the HMIC Review.

515 Would Deputy Lowe agree with me that it is very important that there is proper transparency and clarity about what progress is actually being made on those recommendations, bearing in mind the circumstances whereby I think, particularly in relation to the State Governance Report, her Committee and Members indicated that they were willing to implement the recommendations but they were, to say the least, quite reluctant to accept some of the conclusions in the main body of the report and the same was also perhaps true in relation to the HMIC Report? Would she agree that it is really important that we have clarity on these things going forward and that is the purpose of my Committee hopefully holding a panel hearing later on this year when it is best to do so?

525 **The Deputy Bailiff:** Deputy Green, thank you.
Deputy Lowe.

Deputy Lowe: Thank you, Deputy Green.

As I have written to you, when you actually asked us to attend in November, we are more than happy to attend, we have no problem with that. I stand here and I gave an update in July, three months later I gave you another update in September. We have been more open and transparent about what is going on and updating you all and if it means that you want to duplicate that, we are happy to sit in front of Scrutiny, we will do so.

As I said, we are the most scrutinised Committee that is sitting up here on this top bench in this States because we have asked for the reviews, we have asked for those, we have sat in front of Scrutiny numerous times, but, hey, you are pointing at Education, I am waiting for that one. At the end of the day we are more than happy to be open and transparent and let you know. It has been part of our update Statement, and will continue to be, because we do support the recommendations of both those reports.

Deputy Fallaize: On a point of correction –

The Deputy Bailiff: No, Deputy Fallaize, you cannot have a point of correction, in questions.

Deputy Fallaize: Can I not? Can I ask a question of Deputy Lowe?

The Deputy Bailiff: You can ask a question. Deputy Fallaize.

Deputy Fallaize: Thank you, sir. Would she agree with me that the Committee *for* Education, Sport & Culture has participated in a public hearing called by the Scrutiny Management Committee and offered to participate in another one immediately before the debate on the Committee's recent policy letter, which in the end the Scrutiny Management Committee declined to organise?

The Deputy Bailiff: Deputy Lowe, you do not have to answer that because it is not a question on any matter within the mandate of the Home Affairs Committee.

Deputy Fallaize: Sir, I apologise.

The Deputy Bailiff: Nobody else is rising, so that concludes questions to the President of the Committee *for* Home Affairs.

OVERSEAS AID & DEVELOPMENT COMMISSION

General Update – Statement by the President of the Overseas Aid & Development Commission

The Deputy Bailiff: We turn to the next general update Statement, on this occasion, on behalf of the Overseas Aid & Development Commission and I invite the President, Deputy McSwiggan, to give her update Statement, please.

Deputy McSwiggan: Thank you, sir. My update today will be brief.

Just before the summer recess we debated the Commission's policy letter on the next 10 years of Overseas Aid & Development. Members endorsed a model for the future that will see the introduction of a longer-term, large grants programme alongside the core business of our yearly small grants work – allowing us to work with communities to make sustainable changes that are the bedrock of social and economic growth in the poorest parts of the world.

We agreed to focus on unreported disasters as part of our emergency relief work – that is on localised crises and conflicts which devastate the communities they affect, but which do not hit the global headlines or inspire people to give generously – and we have already started to embed that approach. This Assembly recognised that Guernsey could play an important part in meeting the needs of those forgotten emergencies, paying forward the generosity which the world showed us in our own hour of need.

Because we covered the work of the Commission in depth just a couple of months ago, I will not repeat it now. I will just assure States' Members that, following the States' approval, the Commission and its officers are working on implementing the new model of Overseas Aid from next year onwards; 2020 is also our 40th anniversary year, so it is a great time to be looking to the future and making sure that our approach to international development remains good for the world, and good for Guernsey.

On the subject of anniversaries, earlier this month, Rotary in Guernsey celebrated the 60th anniversary of Guernsey being polio-free. The Commission is proud to have supported efforts by the Rotary clubs to help eradicate polio around the world – vital work that is still ongoing. Members of this Assembly are, rightly, quick to point out the extraordinary work that some members of our community put into overseas aid, and the Commission is always delighted when we can amplify that impact through match-funding and community partnerships.

Last month also marked the 25th anniversary of the Fairtrade mark. The guiding principles of Fairtrade are ethical employment and sustainable production. So, with a common interest in protecting our planet, it made sense for the local Fairtrade steering group to join forces with Guernsey's environmental groups to organise a beach clean at the end of September; and to make the Fairtrade logo with the bits and pieces they collected. If anyone wants to see it, there is a great video on Facebook.

On that subject, I want to thank everyone here who has responded to the Commission's letter about Fairtrade within the States – there were some really constructive responses from Committees, which will help to put us in a good position as we approach our next reaccreditation as a Fairtrade Island.

Thanks are also due to the comms team, who have taken on the formatting of our annual report, which is published this week, and which provides a great testament to the work that Guernsey does in communities around the world. Members will also have seen the fantastic infographic, produced with the help of the comms team, which shows how we have allocated our budget this year: from the planting of over half a million trees, to the distribution of more than a 1,000 mosquito nets, to the construction of more than 700 latrines and toilets, and more. We hope that simple communications initiatives like this will help to make our work ever more transparent, and to build local understanding of what Guernsey does in the wider world, and just how far every penny goes.

Finally, I want to mention that this is my last scheduled update as President of the Overseas Aid & Development Commission. Although I am sure it will not be the last time I address this States on specific aspects of our work, but it would be wrong, at this point, not to say thank you for letting me do the work I so badly wanted to do; but also to mention that, as I am not coming back next term, there will of course be a vacancy here.

The Commission has always welcomed observers to our meetings. If any Member is thinking they might like this job next term, we are in the middle of a funding round now, and we are likely to have another in the spring as we start to implement our new model – as ever, Members would be welcome to sit in on those meetings to get a taste of how we work. Please just contact me or the Commission Secretary to make arrangements. And please *do* think about it.

This Assembly has made such positive steps forward in our approach to international development, from the introduction of impact funding, to the new model of Overseas Aid, to the recognition of its role as one of the pillars of our Climate Change Action Plan; all of which help to establish our place in the world, as a small but not insignificant force for good. It is work worth

doing, and I cannot stress enough that our door is open to anyone who might want to do it, over the months ahead.

625 Thank you, sir.

The Deputy Bailiff: Thank you very much. Does any Member have a question for the President on a matter within the Commission's mandate?

Deputy de Lisle.

630 **Deputy de Lisle:** Thank you, sir.

Can I ask the President what proportion of the States of Guernsey's givings to Overseas Aid are going into administration, rents and so on – overhead costs, if you like – and what controls are placed on administrative costs to Overseas Aid project development?

635 **The Deputy Bailiff:** Deputy McSwiggan.

Deputy McSwiggan: The answer, perhaps to Deputy de Lisle's surprise, is probably less than there should be, because we know that charities need a baseline of administration and good governance, in order to deliver effective projects, but the Commission's approach has always been to fund the projects in the field, so frontline projects to make sure that money that Guernsey taxpayers are going in is going straight to the building of classrooms or the setting up of health centres or delivering physical things on the ground. We will fund certain in-country costs, where you need, for example, a technical expert to help construct a well or set up a health centre or so on. We do not fund any of the UK partners' costs.

645 Actually, I would advise the next States to be thinking about whether this is something they would reconsider, because you need to make sure that not a large proportion but a sensible proportion of your funding goes into making sure that a charity is able to do its work and do it well.

650 **The Deputy Bailiff:** Deputy Gollop.

Deputy Gollop: I read in a recent news release the link to the publication of the latest Overseas Aid & Development Commission Report, that the average request for monies given by the States, by the Commission is around £33,000-£34,000. Would the President consider maybe a smaller number or large gifts would achieve more?

The Deputy Bailiff: Deputy McSwiggan.

660 **Deputy McSwiggan:** Deputy Gollop may remember that this is one of the decisions that we took in our July debate. We consider that the small grants funding programme that we offer is still the bread and butter of our approach to Overseas Aid and those relatively small-scale projects can make a very big difference to the communities in which they are funded.

665 But, yes, there absolutely is also a case for some larger, longer-term grants where Guernsey can be involved in basically a whole transformation. From 2020 onwards, we are going to be scaling back our small grants programme a bit, in order that we can introduce a larger grants programme alongside it, and look at some of the important long-term themes, particularly around climate resilience, around supporting people with disabilities and so on, to make sure that we can make that kind of long-term transformational difference.

670 **The Deputy Bailiff:** Deputy Oliver.

Deputy Oliver: Thank you, sir. Would the President advise me how the Impact Investment Fund is going?

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The Deputy Bailiff: Deputy McSwiggan.

Deputy McSwiggan: As it happens, I am meeting with P&R's investment adviser tomorrow to be advised on progress, because the decision is currently with P&R's investment subcommittee, as to how they want to invest that fund within the guidelines that the Overseas Aid & Development Commission has helped to develop.

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I do not want to steal P&R's thunder by jumping the gun on that conversation, but if any Member of P&R were able to present that information in the form of a question, I am sure I could agree with it; otherwise I will ensure that a statement goes out to Members as soon as we are ready to update you all on how funding is being invested.

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The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, one of the questions that comes my way on Overseas Aid is that the implementation of projects very often goes to the UK companies or overseas developers and workers. What is being done to see that the jobs go directly, in the future, to Guernsey companies, in order to facilitate, really, economic growth in our community, as other jurisdictions see to it that they benefit accordingly?

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The Deputy Bailiff: Deputy McSwiggan.

Deputy McSwiggan: I think that might have been a question for the President of Economic Development but, in the context of Overseas Aid & Development funding, our funding goes to charitable and non-profit organisations, so the language of companies is not really accurate here. We do as much as possible to ensure that we are able to fund Guernsey organisations working overseas, where their work is within the mandate of the Commission and we take our commitment to Guernsey overseas charities even more seriously than that and recognise that UK-based charities have access to learning and development opportunities, which Guernsey charities may not have the same access to.

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When we are expecting high standards of governance and delivery from charities, we have responsibility to support and help to build the capacity of those charities to deliver effectively. Again this is something that the States agreed to in the debate in July, where they accepted that part of the Commission's work should be to support, provide training and set standards around local charities working in Overseas Aid.

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The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: I certainly would welcome the opportunity to attend one of the Overseas Aid & Development Commission meetings but I would argue ... I ask Deputy McSwiggan that given that there is, unfortunately, a lot of criticism of state overseas aid in Guernsey by various members of the public, how can the Overseas Aid & Development Commission put across the case more meaningfully to the apparent numbers of people who put strong views on social media, or the press media, or television?

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The Deputy Bailiff: Deputy McSwiggan.

Deputy McSwiggan: Sir, that is exactly what we have been trying to do, for example, with the development of this infographic, which explains in numbers and pictures how our money is spent

725 and hopefully conveys a meaningful picture in very few words. We recognise the importance of communication and engagement with the community. We want to continue to do that better.

730 Transparency is important for us in everything that we do and that is why we publish an annual report. It is why I try to be as open as possible about the work of the Commission; it is why our door is always open to people coming to sit in on our meetings. But I am going to borrow words from Deputy Inder to wrap this up. In the States' debate in July he said Overseas Aid is all our commitment and we all have a shared responsibility to explain how it is good for the world and good for Guernsey and so it is on all of us, as States' Members, to get that message across to the doubters in the public.

735 **The Deputy Bailiff:** No one else is rising to ask the President of the Overseas Aid & Development Commission any further questions. We move now to Question Time proper.

Questions for Oral Answer

COMMITTEE FOR EDUCATION, SPORT & CULTURE

Arts budget – Annual grant and ticket prices for St James' Concert Hall and Assembly Hall; importance of funding arts variety

The Deputy Bailiff: Deputy Gollop has questions to pose to the President of the Committee for Education, Sport & Culture. Deputy Gollop.

740 **Deputy Gollop:** My Questions are directed to the Education, Sport & Culture President, Deputy Fallaize. My first Question, sir, is: has the arts budget for musical performances increased in real terms including the annual approved grant to St James' Concert Hall and Assembly Hall in recent years?

745 **The Deputy Bailiff:** Deputy Fallaize to reply.

Deputy Fallaize: Thank you, sir.

750 The Committee for Education, Sport & Culture makes annual grants to St James' and the Guernsey Arts Commission. These grants have been neither increased nor decreased in recent years. Many services, which are grant-funded by the States, have been under increasing pressure to deliver the same or in some cases improved services with less funding available from States' general revenue than in the past.

755 Our grants in support of the arts have so far been immune from this pressure. The Committee directed that grants to the arts should not be reduced in 2019. In 2020, despite considerable budget pressures across the Committee's mandate and the inevitability of cuts in funding in some areas and pending the outcome of the Budget debate in three weeks' time, the Committee has no plans to reduce the funding it provides to St James' or the Guernsey Arts Commission. I met representatives of St James' recently to discuss their challenges and opportunities and I invited them to provide us with any proposals they have in relation to their funding arrangements or future operations.

760 **Deputy Gollop:** Supplementary question there, sir.

The Deputy Bailiff: Supplementary, Deputy Gollop.

765 **Deputy Gollop:** What is the size of current funding to St James' and does that represent a cut in real terms on the culture and leisure era?

The Deputy Bailiff: Deputy Fallaize.

770 **Deputy Fallaize:** I believe the annual grant is just short of £60,000 per year and it represents the same sum, in absolute terms, as has been paid to St James' over a considerable number of years, so it has not been increased with inflation; which is typical of grants paid by States' committees to third parties or agencies, although in very many cases grants have been produced in absolute terms in recent years and not just failed to keep pace with inflation.

775 **The Deputy Bailiff:** Your second Question, Deputy Gollop.

Deputy Gollop: Thank you very much, sir.

780 Would the Committee agree that cheaper, lower or more subsidised concert hall prices would encourage larger audiences with greater diversity?

The Deputy Bailiff: Deputy Fallaize to reply.

785 **Deputy Fallaize:** Lowering the costs of tickets to such events may very well increase demand. If that is to be achieved through public subsidy, the questions then are which other public budgets will be cut to pay for it or who will pay the additional taxes necessary to fund it? Having said that, price is only one factor in influencing attendance at any particular event. The Committee has found that the format of an event tends to have a dominant effect on demand for tickets. A good example is the recent Proms on the Pier event which was equally well supported before and after the introduction of a ticket price.

790 I am sure St James' are very aware of what needs to be provided in order to attract healthy audience numbers and their expertise in this area no doubt influences their decisions on what to stage, when and at what price.

The Deputy Bailiff: Supplementary question, Deputy Hansmann Rouxel.

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Deputy Hansmann Rouxel: Thank you, sir.

800 Would the President of Education, Sport & Culture agree with me that an over-arching art strategy which deals with audience participation and inclusion and getting bums on seats, basically, would help give direction to places like St James'?

The Deputy Bailiff: Deputy Fallaize.

805 **Deputy Fallaize:** I think that what would help most is additional investment in the arts, from whichever source, but I agree with Deputy Hansmann Rouxel if the underlying point of her question is that, in order for that investment to be directed to the best possible effect, a States-endorsed strategy or plan for the arts is desirable and indeed necessary.

810 In previous update statements I have advised the States that my Committee has been working with the Guernsey Arts Commission and the Guernsey Community Foundation to try to make progress in this area and I very recently met with Deputy Hansmann Rouxel and some other Members of the Committee and relevant officers and we will soon organise a meeting between those parties and the Guernsey Arts Commission and the Guernsey Community Foundation to receive an update on how that work is going and to assess whether the Committee needs to

provide any additional impetus to ensure that work can come back to the States as expeditiously as possible.

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The Deputy Bailiff: Deputy Gollop, supplementary.

Deputy Gollop: Given the answers Deputy Fallaize has given, would he therefore agree with me that price is an important factor in determining the demand for minority musical events, maybe classical music, jazz music or perhaps world music, and therefore a strategy for the arts needs to look at what is a realistic price for families on the Island?

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The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: My view is that price is a relevant factor but quite possibly not a dominant factor and that is based on evidence collected, or known to my Committee, and to those in the community who organise such events. I do not think it is as simple, where what Deputy Gollop calls minority events are concerned to believe that if there is a substantial decrease in ticket prices, however that is funded, that it will inevitably result in an increase in demand.

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It has to do with consumer tastes and preferences, which are influenced by a whole range of factors, including but not limited to price. I think St James' has some experience recently for such events of having made substantial reductions in ticket prices, but not being able to increase demands substantially. So I think price is a relevant but not dominant factor.

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The Deputy Bailiff: Your third Question, Deputy Gollop.

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Deputy Gollop: Thank you very much, Mr Deputy Bailiff.

Does the Committee consider funding arts variety important for the island's society and wellbeing?

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The Deputy Bailiff: Deputy Fallaize to reply.

Deputy Fallaize: Thank you, sir.

Yes, it does. Through the Guernsey Arts Commission, last year the Committee provided over £63,000 to subsidise 32 public arts events. Events such as the Vale Earth Fair, Alderney Performing Arts Festival, Chaos and Candie Gardens Summer Concerts all benefited from grant funding from my Committee in 2018 and 2019.

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We are delighted to be able to support such a rich variety of public arts events. I also wish to take this opportunity to thank the many organisers and volunteers who run these diverse events to the great benefit of our Island. My Committee also provides substantial investment in the arts through funding of the Guernsey Music Service, the Performing Arts Centre, St James', as we have been discussing, and the arts curriculum in schools. As noted in the Policy & Resource Plan, my Committee is working in partnership with the Guernsey Arts Commission and the Guernsey Community Foundation on the development of a plan for the arts. The vision for this work is that Guernsey will have:

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A vibrant and sustainable arts sector that is valued and supported by Government, business, the voluntary sector and the general public, all of whom recognise that art and culture improves health and wellbeing, thereby making Guernsey a better place to live, and no one is denied the opportunity to create or to benefit from the creative endeavours of others and local artists are supported in trying to make a living from their talents.

The Deputy Bailiff: Supplementary, Deputy Gollop.

Deputy Gollop: Two supplementaries here, please.

860 My first would be how does Deputy Fallaize and the Committee intend to counteract, again, the perhaps misleading perception that arts are under-funded in Guernsey compared to other countries and islands and the arts are under-funded by the state even in comparison to sports or leisure?

The Deputy Bailiff: Deputy Fallaize to reply.

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Deputy Fallaize: Thank you, sir.

870 The answer to the first supplementary question – how does the Committee intend to counter the perception that arts in Guernsey are funded less generously by the States compared to in other jurisdictions – is that the Committee does not intend to do that because it is the truth, so there is no point trying to counter what is a truth rather than just a perception. Arts in other jurisdictions are typically funded more generously than they are in Guernsey, in line with public services in a whole host of other areas. Deputy Gollop knows that and we have had that debate many times in the States.

875 In terms of relative funding, I think the work that Deputy Hansmann Rouxel has referred to, around a plan for the arts or an arts strategy, is key in us being able to evidence the reasonable level of arts funding; whether that needs to remain the same or increase in the future, relative to other areas of the Committee's mandate.

880 **The Deputy Bailiff:** My second supplementary, thank you, sir, is given that in many ways, many diverse areas, Guernsey punches above its weight as an arts leader with individual stars and groups; in terms of an arts strategy can Education, Sport & Culture say when their arts strategy will come to the States and whether it should include significant working together, with particularly Economic Development and Policy & Resources with the Seafront Enhancement Programme? I think we have had a diverse range of committees there.

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The Deputy Bailiff: Deputy Fallaize to reply.

890 **Deputy Fallaize:** The what programme? Certainly I think it needs to include working with the Committee for Economic Development, because there is a clear link. I think it would be a mistake to try to make the thing so big it was bigger than an elephant, so that in typical States' fashion it takes years and years to develop.

895 Having said that, I cannot promise the Assembly that it will be possible to get this policy letter back to the States in this term of the States. The resource for arts policy, which many years ago did sit with the States, was transferred to the Guernsey Arts Commission and there is no policy officer resource just sitting around waiting to develop this policy.

900 However, as I said to Deputy Hansmann Rouxel when we met earlier this week, the Committee wants to make every effort to bring this policy letter back to the States during this term or at least to progress it very substantially and I think in the next three or four months I will be in a better position to provide Deputy Gollop with some certainty about whether it will be possible to bring it to the States before the Election.

The Deputy Bailiff: Deputy Lester Queripel.

905 **Deputy Lester Queripel:** Bearing in mind the arts is the fastest growing industry in the UK, creating hundreds of jobs every year, can the President tell me please whether or not his Committee have any intention of asking the States for a lot more money to enable the Committee to raise the bar for the arts here in the Bailiwick and to enable them to stage a lot more events than they currently are able to do?

910 **The Deputy Bailiff:** Deputy Fallaize to reply, if he can.

Deputy Fallaize: The easiest answer to that question is to say, yes, which would no doubt be enormously popular with all the people connected with the arts, but the issue is how do you pay for it? I think that it is likely but not certain that the plan for the arts, which the Committee will lay
915 before the States, will include proposals to increase public investment in the arts but, if it does, that is then going to require, I think, very careful discussions with the Policy & Resources Committee about when and how that additional investment can be provided.

COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

New Wrightbus StreetVibe bus fleet – Growing passenger numbers; effects of Wrightbus' uncertain future on Island fleet; replacement of traditional vehicles in service; reintroduction of double-deckers; service operator tendering process

The Deputy Bailiff: Thank you very much, Deputy Fallaize.

920 The next set of Questions is again Deputy Gollop, this time putting Questions to the President of the Committee *for the* Environment & Infrastructure. So your first Question to Deputy Brehaut, please, Deputy Gollop.

Deputy Gollop: Thank you very much, sir.

925 Would the Environment & Infrastructure Committee agree that the performance and slimmer size of the new Wrightbus StreetVibe bus fleet purchased by the States in recent years has been a significant contributing factor to the growing passenger numbers using the bus services despite a mixed year for tourism staying visitors?

The Deputy Bailiff: Deputy Brehaut to reply.

930 **Deputy Brehaut:** Thank you, sir, and I thank Deputy Gollop for laying these Questions and showing, as ever, his keen interest in the bus service.

935 The 34 new StreetVibes have been vitally important during a period of unprecedented growth in bus passenger journeys. At 2.28 m wide, these buses are the narrowest on the market, equipped with the latest passenger information systems, high-back E-leather seats, free Wi-Fi and, of course, a fresh new livery. The StreetVibes have provided a platform to promote the bus service as a reliable, viable and affordable form of transport for all Islanders.

940 Equipped with Euro 6 diesel engines, the new fleet is quieter and more fuel efficient than the vehicles they replaced. In terms of the most harmful of pollutants, they have reduced emissions of nitrogen oxides and particulate matter by as much as 98% and 90% respectively. Of course, there are other important reasons why the bus service has been so successful, including the introduction of the comprehensive network of services, improved frequency at peak times and affordable fares, just to name but three.

945 In 2019, the bus service is expected to carry 1.95 million passengers, an increase of 500,000 passengers in just six years, with 180,000 students also carried on the integrated school services. The number of passengers carried by the States-owned fleet will exceed 2.1 million this year. With mounting pressure being put on our limited road infrastructure, public transport is playing an increasingly important role in reducing congestion and pollution by providing a real viable, affordable, alternative to the use of the car.

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The Deputy Bailiff: No supplementary questions, so your second Question to the President, please, Deputy Gollop.

955 **Deputy Gollop:** Recently, sadly, it was internationally announced that the Northern Irish bus manufacturer Wrightbus has gone into administration with job losses. Is Environment & Infrastructure ensuring sufficient spare parts and technical support will remain on-Island for the newish fleet over the next decade or so?

960 **The Deputy Bailiff:** Deputy Brehaut to reply.

Deputy Brehaut: Thank you, sir.

It would appear from recent media publications that a potential buyer has been found for Wrightbus in Northern Ireland. At present it is unclear what it means for the former company and its employees or how it might impact on ongoing support and maintenance for our StreetVibes. But events are being monitored closely by staff in Traffic and Highways Services.

965 As a contingency measure, staff are working closely with CT Plus to ensure that enough stocks of replacement parts are sourced in order to keep our fleet of buses fully operational during this period of uncertainty. The States does not have any outstanding commitments with Wrightbus in terms of orders. If necessary we will talk directly with the manufacturers of major component parts such as engines and gearboxes, to ensure that the longer-term warranties are retained in the event that these issues are not supported under any take-over arrangement with the former Wrightbus company.

970 I am also pleased to report that phases one and two of the bus replacement programme have come in under budget and that any contract penalties were reclaimed from Wrightbus prior to payment of the last StreetVibe, which was delivered in January 2019.

The Deputy Bailiff: Supplementary question, Deputy Gollop.

980 **Deputy Gollop:** My supplementary, which also applies to Question one, really, is historically we can all think of buses that lasted 20 years or more on Guernsey roads, but what is the Committee's general feeling about the life expectancy of the Wrightbus StreetVibe fleet, as the previous Dart fleet lasted between 14 and 16 years?

985 **The Deputy Bailiff:** Deputy Brehaut to reply.

Deputy Brehaut: The procurement process needs to change and needs to be fundamentally different, whereby we ran very old buses in excess of 20 years, with old engines, old drive units. What we are hoping, I think like a lot of small communities are, and this is not revealing itself just at the moment, is that advances within technology means that we can have electric vehicles and hybrid vehicles, so we are not running what could be described as dirty diesels. Bearing in mind the ULEB buses we are running can run in clean air zones in UK cities, for example.

The Deputy Bailiff: Deputy de Lisle.

995 **Deputy de Lisle:** Can I ask a question on that, sir? Because in terms of procurement for new buses, isn't this an opportunity actually with Wright and others to divert the contract from diesel buses to electric buses and to make that change now, given the mistake that I feel was made in the past?

1000 **The Deputy Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you.

1005 Some of the answers do touch on that issue but can I say that if the electric vehicles are generally much wider, an electric vehicle as opposed to the cost of a StreetVibe, which cost £130,000, would be likely to cost in the region of £250,000, with a reserve battery at £9,000 and of course charging a bus is very different to a 16-amp or 32-amp electric vehicle. This is real cabling, real cables in the ground. So it is an infrastructure change that needs to take place along with emerging technologies that can provide buses that simply fit the Island's roads.

1010 **The Deputy Bailiff:** Your third Question Deputy Gollop.

Deputy Gollop: Thank you very much. The Dennis Dart Nimbus Caetano bodied fleet of eight traditional vehicles remain in service despite their age. Will their replacements be a new type of vehicle, preferably hybrid or electrically powered, given our collective commitment to carbon reduction and greener ideas?

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The Deputy Bailiff: Deputy Brehaut to reply.

Deputy Brehaut: I will apologise for any repetition because I have just touched on this but, unlike the electric car market, where there have been significant developments in recent months and years, progress amongst bus manufacturers has been disappointingly slow, with still no sign of a viable replacement electric bus that meets our capacity and width requirements coming onto the market currently. However, staff in Traffic and Highway Services are continually reviewing market developments and a decision on the final phases of the bus fleet replacement programme will be made at the earliest possible opportunity.

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The Deputy Bailiff: Supplementary question, Deputy Gollop.

Deputy Gollop: This touches on another topic. Will phase three of the procurement process, therefore, very much specify hybrid vehicles and maybe a relaxation of width requirements?

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The Deputy Bailiff: Deputy Brehaut to reply.

Deputy Brehaut: We are working closely with our colleagues in Jersey because we need to replace eight vehicles. Now getting any build facility and factory to churn out or produce simply eight vehicles that are unique to Guernsey is going to be something of a challenge. So what we need to do is to work with our colleagues in Jersey, work with our colleagues, possibly in the Isle of Man – even Gibraltar, who I was in conversation with recently, face the same challenges with some of their roads – to see whether the collective purchasing power of Crown Dependencies can assist in the literal delivery of those vehicles. We are looking for something. Electric buses exist but they are extremely wide, extremely long, to carry 60 people as opposed to 30-odd people.

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The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Can I ask, sir, whether, in terms of procurement of these vehicles, we cannot at this stage look at some rationalisation in the number of routes that apply in the Island's roads? Particularly, has a re-evaluation been done, let us say, of the P2 service, because that surely is only bringing in a minimum amount of money compared with the need for the 7s around the Island, particularly during the summer service, where we are short really of service, in terms of bus drivers and we are short in terms of buses? Can some consideration be given to re-evaluating the P2 service and a couple of others that are not really bringing in too much money and duplicating

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other services? Can that not be looked at in terms of bringing down the costs of purchasing new buses?

1055 **The Deputy Bailiff:** Deputy de Lisle, I am going to rule that that is not a supplementary question arising out of the Answer to the Question. If you are interested in such matters then can I suggest that you pose separate Questions, on another occasion, whether in writing, or orally to the President?

1060 **Deputy de Lisle:** I will do, sir, but it is a critical question in people's minds.

The Deputy Bailiff: In that case you can ask the question in due course, but not today. Any more supplementary questions arising out of the Answer to the principal Question? Your fourth Question, then, please, Deputy Gollop.

1065 **Deputy Gollop:** Thank you very much.

Given the success in the 1980's and 1990's of a frequent double-decker coastal bus service routed to the western parishes via L'Ancrese, would the Committee consider requesting CT Plus to emulate their sister subsidiary Liberty Bus on Jersey and reintroduce double-deckers such as, for example, the Borismaster?

The Deputy Bailiff: Deputy Brehaut to reply.

1075 **Deputy Brehaut:** I like double-deckers. Unfortunately our existing road infrastructure is not, for the most part, suitable for the operation of services using modern double deck buses, which are generally in the order of 2.55 m wide. These vehicles can operate a small number of services in Jersey, where the road network is generally less restricted than ours.

1080 As Deputy Gollop rightly points out, double deck buses have been used in the past on a few restricted coastal routes, both for scheduled and private hire operations. However, some of the older double deck buses were less than 2.5 m wide and were therefore more easily able to traverse some of our roads.

1085 Whilst this possibility is not being totally dismissed, the Committee does not have any current plans to introduce a double deck bus on any public route soon. In recent years, several initial requests, inquiries, have been received from private hire operators, regarding the potential operation of public excursion or private hire service, more specifically aimed at the tourist market, using a double deck bus, but to date, these inquiries have not led to any formal applications being submitted to the Committee.

The Deputy Bailiff: Supplementary question, Deputy Gollop.

1090 **Deputy Gollop:** My question, which brings in one element of Deputy de Lisle's point, is that a double-decker operated service from Town to, let's say, Pleinmont via the coastal route would be a significant draw for tourists and cruise passengers and would therefore alleviate the issues of the smaller, scheduled bus fleet being overcrowded or misused. Would the Committee agree that a double deck alternative would make the operation of the rest of the network much easier logistically?

The Deputy Bailiff: Deputy Brehaut.

1100 **Deputy Brehaut:** A bus service has to be designed with a number of vehicles in mind to always meet that peak demand. We know that demand is heavier in the summer so we could, theoretically, take advantage of a double-decker bus service. However, we need the resource that

1105 we have to ensure that the community is served for 12 months of the year and, bearing in mind the uptake that the community have embraced of the bus service, it is very difficult to then tinker with it and play with it when people have become aware of the schedule and the service and how reliable it is.

The Deputy Bailiff: Deputy Hansmann Rouxel.

1110 **Deputy Hansmann Rouxel:** Thank you, sir.

1115 Would the President agree with me that in theory getting more people on the bus does make it more viable but the logistics of getting a double-decker bus, specifically through some of our areas where the height of hedges along the road and the cutting of those hedges would need to be changed in Law, there are many logistics to think about when thinking about getting the logistics of a bus around the Island?

The Deputy Bailiff: Deputy Brehaut.

1120 **Deputy Brehaut:** Yes, I would agree with that, obviously, and as I have said in my answer, there is nothing to stop any company that want to do that. If people believe that is a great business opportunity and the cruise passengers, in particular, would want to travel around the Island, or at least from point to point, on a double-decker bus, that is an opportunity for them. People have made initial enquiries on that and then do not appear to follow through and do not proceed to operate in such a service.

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The Deputy Bailiff: Deputy de Lisle.

1130 **Deputy de Lisle:** Sir, following that answer, is the President actually suggesting competition, then, to the States in bus travel and bus services?

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The Deputy Bailiff: Once again, Deputy de Lisle, what you are doing, I suggest, is seeking to ask a question arising out of the answer to the supplementary question, as opposed to the Answer to the principal Question and therefore I will rule that that cannot be put. Any further supplementary questions on the Answer to Question four before we move to Question five? Your fifth Question, then, please Deputy Gollop.

1140 **Deputy Gollop:** Thank you very much, sir. How far has the Committee considered the next stage of the service operator tendering process including perhaps a partial relaxation of bus width restrictions on certain routes?

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The Deputy Bailiff: Deputy Brehaut to answer.

Deputy Brehaut: Thank you, sir, and thank you, Deputy Gollop.

1150 The Committee is in the final stages of negotiating a potential extension to the existing bus service agreement with the current operator, in accordance with the terms of the current contract. As explained above, development in electric or alternative fuel buses have been slower than expected, so the contract would need to continue, based on the current fleet mix, with the final phase of the replacement programme being completed at the earliest available opportunity.

1155 The maximum Island-wide limit for buses and coaches is already set at 2.5 m but for the practical and safe day-to-day purposes, narrower vehicles are generally required to operate most of our scheduled bus routes. If a suitable electrical or alternative fuel vehicle comes out of the market, which does not unduly compromise practical operational considerations, including road

safety, then consideration would be given to licensing such vehicles for use as passenger carrying vehicles.

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The Deputy Bailiff: Supplementary question, Deputy Gollop.

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Deputy Gollop: My supplementary would be: given there is a possibility of an extension for the exiting operator to continue the services, would the Committee attempt to ensure that the next stage would see an emphasis on increasing and maintaining current service levels and passenger numbers.

The Deputy Bailiff: Deputy Brehaut.

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Deputy Brehaut: Yes, is the short answer. If I can perhaps touch on a question that I was not in a position to answer, rationalisation of the bus service basically means doing less at a time when the uptake has increased significantly. If we talk in terms roundly of the integrated transport strategy, this has been a hugely successful component, because it has been appropriately resourced, it has been appropriately funded. I think we just need to do all we can to ensure that there is this continued growth on the Island's bus service.

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The Deputy Bailiff: No one else is rising to ask a supplementary question arising out of that final answer so that concludes Question Time for this meeting,

Billet d'État XX

ELECTIONS AND APPOINTMENTS

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

I. Employment and Discrimination Tribunal – Appointment of Convenor – Mr Jason Hill appointed

Article I.

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Employment and Discrimination Tribunal: Appointment of Convenor', dated 9th September 2019, they are of the opinion:

1. To designate Mr Jason Hill as Convenor of the Employment and Discrimination Tribunal Panel from 1st November 2019 until 28th February 2021.

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The Deputy Greffier: Article I, Committee for Employment & Social Security – Employment and Discrimination and Tribunal, appointment of Convenor.

The Deputy Bailiff: I invite the President, Deputy Le Clerc, to open debate.

Deputy Le Clerc: Thank you, sir.

1180 I have not got much to add other than to take this opportunity to say thank you to all the members of the Panel and the time that they commit to the Employment and Discrimination Tribunal and I ask Members to support Mr Jason Hill and his nomination as Convenor.
Thank you.

1185 **The Deputy Bailiff:** Members of the States, I put to you the Proposition that you approve the designation of Mr Jason Hill as Convenor of the Employment and Discrimination Tribunal Panel from 1st November 2019 until 28th February 2021. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare that approved; carried. Mr Hill is the new Convenor from the start of next month.

LEGISLATION LAID BEFORE THE STATES

**The Water Charges (Amendment) Regulations, 2019;
The Wastewater Charges (Guernsey) Regulations, 2019;
The Waste Disposal and Recover Charges (No. 2) Regulations, 2019;
The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
(Amendment No. 5) Regulations, 2019**

1190 **The Deputy Greffier:** The following legislation is laid before the States. Number 87/2019, the Water Charges (Amendment) Regulations, 2019; number 88/2018, the Wastewater Charges (Guernsey) Regulations, 2019; number 89/2019, the Waste Disposal and Recovery Charges (No. 2), Regulations, 2019; number 91/2019 The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 5) Regulations, 2019.

1195 **The Deputy Bailiff:** Members of the States, we note that those four Statutory Instruments are laid before this meeting of the States. There have been no requests to debate any of them.

LEGISLATION FOR APPROVAL

COMMITTEE FOR HOME AFFAIRS

II. The Population Management (Guernsey) (Amendment) Law, 2019 – Approved

Article II.

The States are asked to decide:

Whether they are of the opinion to approve the draft Projet de Loi entitled 'The Population Management (Guernsey) (Amendment) Law, 2019', and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

The Deputy Greffier: Article II, Committee for Home Affairs – the Population Management (Guernsey) (Amendment) Law, 2019.

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The Deputy Bailiff: Deputy Lowe, do you wish to open any debate on this matter?

Deputy Lowe: No, sir.

1205 **The Deputy Bailiff:** In that case, Members of the States, I put to you the draft *Projet de Loi*, entitled the Population Management (Guernsey) (Amendment) Law, 2019. Those in favour of approving it; those against.

Members voted Pour.

The Deputy Bailiff: I declare that Proposition duly carried.

COMMITTEE FOR HOME AFFAIRS

III. The Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019 – Approved

Article III.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019', and to direct that the same shall have effect as an Ordinance of the States.

1210 **The Deputy Greffier:** Article III, Committee for Home Affairs – the Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019.

The Deputy Bailiff: Deputy Lowe, do you wish to introduce this at all? Nobody else is rising to speak. Deputy Merrett, then.

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Deputy Merrett: Thank you, sir.

I wish to speak for primarily two reasons. Firstly, sir, the treaty is being signed on this case, or in this case a customs arrangement being signed, on behalf of us all on this occasion on 26th November, 2018, by the President of the Committee for Home Affairs, signed the customs arrangement with the UK Financial Secretary to the Treasury, Mel Stride MP. I was concerned that this agreement was signed in November even though the July policy paper, entitled *Customs, Duties and Associated Powers Required in Respect of Brexit*, that stated quite clearly, Proposition 2 of that policy paper was:

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To direct the Committee for Home Affairs to enter negotiations regarding a customs arrangement with the UK and report back to the States with recommendations in relation to entrance arrangements, as set out in paragraph 5.5.

And 5.5 stated:

The States will be asked to approve any new customs arrangements before they are entered into by the Bailiwick.

1225 So in my mind, sir, this Assembly has not given explicit consent for such arrangements or treaties to be signed, as it was the intention that we should be asked to approve it before any were entered into. That, to me, was explicit.

Luckily, sir, on this occasion, we were content with it. But what if we had not have been? The customs arrangement appears to be pragmatic and progressive but what if it had not been, sir? This concerns me. As Members may recall, I am very concerned that treaties or customs

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arrangements can be signed or ratified on our behalf without any debate in this Chamber. That is not withstanding the Committee *for* Home Affairs is deemed as a competent authority for the Bailiwick on customs matters.

1235 Now further, I am led to believe the Committee considered and agreed to the arrangement with Policy & Resources and Policy & Resources were also involved. Now that is good. But I was not, and the majority of Members were not, and that was the agreed direction from this Assembly in July 2018 to the Committee *for* Home Affairs.

1240 Thankfully, sir, it was ratified in this Assembly in December of that year, in the Customs and Cross-Border General Enabling Provision, which alluded to introducing a civil penalty regime. Part 3.9b(i) was for the provision of the creation and punishment of offences in respect of contraventions of the Ordinance or regulation and as to the creation of new duties, obligation, liabilities, remedies, penalty sanctions and other consequences.

1245 So we appeared then, sir, to move away from the original intent of the Customs, Duties and Associated Powers Required in Respect of Brexit paper in July 2018 to introducing a civil penalty regime, regardless of whether or when Brexit happens. Or maybe I have misunderstood this. Some clarity from the President would be most appreciated.

1250 Now secondly, sir, it is my belief that we – and we being our community in this instance – expect fair, open and transparent justice based on evidence to be at the heart of our justice system. That is the quandary here, sir, as I believe it should also be proportionate but I am uncomfortable with what appears to be a creeping increase in the quasi-judicial decisions being made by politicians, albeit politicians trying to wear a different hat, further so when this is done behind closed doors; because civil penalties in regard to the Bailiwick's customs station will be a new provision in our jurisdiction.

1255 Of course, we already have this in other Guernsey legislation; for example, the population management, which also falls under the mandate for the Committee *for* Home Affairs. But in my mind, a crucial difference is that these penalties are not enacted by the political Members, they are enacted by an appointed member of the executive and not elected Members wearing quasi-judicial hats.

1260 The appointed executive will presumably be appointed that specific role on the required skill base and experience. The Committee, Deputies, will not be acting as the Legislature in regard as this Ordinance. They will be asked to act as executive in issuing a financial penalty and that is what concerns me.

1265 Will they have the required skill base and experience to execute the role? Now that question, unless one has a crystal ball, is probably unanswerable. Of course, we know who the Members of the Committee are, but should any resign their seats, of course, we have an election next year, we simply do not know, do we, sir?

1270 So what we will have is the political Members signing the agreement, setting the policy, signing, deliberating and determining the penalties as the Legislature, determining the appeals procedure, etc., voting and enacting the Ordinance that gives such powers and the very same Deputies, in my mind, acting as judge and jury and issuing financial penalties. That just makes me uncomfortable. It is the very same Deputies, the same people, with the same heads but a different hat.

1275 Now these penalties have been in place in the UK for some time, for the conduct described in the Ordinance and the introduction in our jurisdiction is partly as a result of a need to ensure our customs station is broadly correspondent with that of the UK's in relevant areas, because of the customs agreement that the President entered into last November.

1280 So this is about, arguably, being able to offer a more proportionate and efficient alternative to criminal prosecution for relatively minor breaches of the Law. But who will determine that there has been or is a minor breach of the Law? Should that be the courts or a political committee, even if they do change their hats?

Should that be on the balance of probabilities or simply for the Committee to be satisfied that a breach of the Law has happened? I have been advised by H.M. Procureur, which I thank her for, that in general terms, this has been considered extensively by the courts in the UK and they have found it to be European Court of Human Rights-compliant. I note also the right to appeal to the court against any imposition of the penalty in this Ordinance, as well as the provision for the issue of a warning letter, and the right to submit representation before a penalty is imposed. They are all here.

There is also provision for publication of default penalties in an attempt to aid transparency and to promote consistency in the decision-making. So my concern is that these decisions are something that I would expect a civil court to make and not be straying the quasi-judicial avenue any further than we absolutely need to. It is this quasi-judicial hat that clearly concerns me. This is when certain powers enacted by politicians to politicians in a small community, this concerns me as we are asking elected public figures to, for all intents and purposes, act like a judge and jury.

In terms of administrative law, these types of decisions made by the executive are not unusual. But of course it does not always make them right. The decisions involved are generally not quite the same as rights determined by a court. Generally speaking these sorts of powers are only exercised when certain facts are found to exist. So this concerns me. Decisions may not always be based on fact or the Committee being satisfied that imposing a financial penalty in respect of an alleged contravention is appropriate and proportionate, as that could be subjective.

In Guernsey there is currently only the option of criminal penalties against persons engaged in conduct for the purpose of evading any duty of customs or excise, or in conduct that contravenes a customs obligation. The UK, along with numerous other jurisdictions, have both criminal and civil penalty regimes in place, with the civil designed to promote compliance with customs requirements in a regulatory nature and the criminal to deter deliberate evasion of smuggling ventures.

This Ordinance, sir, looks to introduce a civil penalties regime to deal with the lower level offences, which may unnecessarily take up court time and would, in certain circumstances, not proportionate to award that person with a criminal record. That I agree with.

It would be down to the Committee *for* Home Affairs to be satisfied that imposing a financial penalty, a financial penalty that they have deliberated and had a vote on, determining in respect of the contravention, is an appropriate and proportionate course of action. They will determine whether to issue a financial penalty.

Under section four of the proposed Ordinance, a route of appeal has been incorporated to allow an appeal to the court based on the existing customs appeal processes. This can come after the person involved has the right to appeal directly to the Committee in writing. Therefore it could be argued that sufficient provisions are included in the proposed legislation to ensure the process is fair and the Committee cannot hand out arbitrary punishments.

Section five allows the Committee to determine and publish guidance on the penalty amounts that have been imposed in respect of specific contraventions. But this is not an explicit requirement. I am advised, sir, the Committee intend to do this, which I applaud them for, because it will help, in my opinion, ensure fairness and consistency when applying penalties under the proposed Ordinance. Ultimately, upon appeal, an inappropriately set penalty could be remitted back to the Committee with such directions as the court thinks fit.

In addition to all of the above, as part of the customs agreement, forming a Customs Union across the British Islands after Brexit the UK expects correspondence across the political customs legislation. Now this ensures that anyone involved in the movement of goods into or out of the customs territory can expect to be treated in a like manner. Failure to demonstrate correspondence in key areas, of which this has been deemed to be one, could risk Guernsey's position in that arrangement.

1330 So I ask again, by joining a Customs Union across the British Islands, while originally the intent I believe of this Assembly was to negate any issues arising from Brexit, will this civil remedy come into effect regardless of Brexit or not? I am assuming so because we now have this Ordinance.

1335 Lastly, sir, my other concern is what training or guidance has the Committee ensured it will have to undertake this quasi-judicial role if and before it is enacted? I look forward to the answers to my questions when the President sums up as the answers to these questions will determine my vote.

Thank you.

The Deputy Bailiff: Deputy Gollop.

1340 **Deputy Gollop:** Deputy Merrett often surprises us with the diligence of her speeches, as she did last time when we considered the questions of extradition. This issue I do remember, not particularly prepared on it, but it came before us at the Legislation Select Committee. Deputy Tindall will remember, I am sure.

1345 It did raise a number of questions as to whether the penalties were proportionate and also the confusion to a certain extent between civil and criminal and this idea of warning letters being sent. We were assured that effectively it was a half-way house between a more rigorous criminalisation of smuggling and a leniency to what is increasingly, arguably a potential flaw from Deputy St Pier and Policy & Resources' point of view in ensuring that people do not evade duties.

1350 So there is an element of doubt here and also there was a question about categorisation of what was defined as a smuggler. We have in mind a pirate or a rascally privateer, but the question is of scale. Is the scale little Johnny going through with an extra packet of cigarettes in his bag or is the scale professional smugglers or importers or exporters?

1355 I must admit that this piece of legislation, a little bit like the complexities we have just heard about or voted through about a debate, on population and migration, it does raise a lot of questions and I think we would benefit as an Assembly from greater parliamentary scrutiny of legislation and the powers that we grant to bodies because sometimes on the Island it is not entirely clear whether those powers have been given to statutory officials working on behalf of the Committee or whether those powers will rest within the Committee and therefore the President and Members of that Committee would have some degree of influence.

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The Deputy Bailiff: Deputy Prow.

Deputy Prow: Thank you, sir.

1365 I had not intended to speak. Perhaps I can help to a slight degree. From my background I can inform the States that it is a tried and tested practice in the United Kingdom where low-level offences are dealt with in a very similar way and that has been going on for very many years and that has successfully been achieved.

1370 With regard to the customs arrangement, which the President of Home Affairs has signed up to, and whatever the outcome of Brexit, it may be that depending on that outcome that arrangement will have to be revisited in any case. What has happened is that we need, as a jurisdiction, to have in place the tools in the box to cope with the customs arrangements that we will need to have once Protocol 3, or if Protocol 3 were to fall away. I hope that is, to some degree, helpful.

1375 I would draw the States' attention to section four where if somebody is aggrieved by a decision of the Committee they can appeal to a court against the decision. We are talking about low-level offences here and an avoidance of having to go through the criminal justice process. If in the situation where somebody is aggrieved at the decision of the Committee *for* Home Affairs, they can appeal.

1380 I would in particular draw attention to sub-section two which actually brings in some natural justice provisions, which I would say are actually lacking in some of our appeals legislation, particularly the older appeals legislation, which do not have natural justice provisions within them. You are able to appeal if you think the decision was unreasonable or there was a lack of proportionality.

1385 Thank you, sir.

The Deputy Bailiff: Deputy McSwiggan.

Deputy McSwiggan: Sir, just a couple of points to build on Deputy Merrett's speech.

1390 I am likely to support this legislation. It is generally better to keep things out of court, so that goes in its favour. I have been trying to think of analogous powers that other States' committees have and I suspect that the powers being given to the Committee *for* Home Affairs, in terms of their impact on people's lives, are not a million miles from some of the discretionary powers that we have as the Committee *for* Employment & Social Security, in respect of some of the benefits decisions that we have to make.

1395 I do not think the Law itself is fundamentally offensive but what is offensive is that the Committee *for* Home Affairs signed a customs arrangement with what has turned out to be quite a long legislative tail that we were completely unsighted on. That, sir, I do not think is alright. Of course Brexit has created an environment where it is easier for us to establish that environment of urgency in which individual committees have been able to say, 'We need to go off and do this because we need to do it now.'

1400 That is not something that I think we should be accepting as a trend and a way forward. If this parliament is to be committed to legislative changes then this parliament has to be cited on and has to agree to that process from the outset.

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The Deputy Bailiff: Deputy Lowe to reply to the debate on this Article, then, please.

Deputy Lowe: Thank you, sir.

1410 Some of the questions that have been raised this morning were covered actually when we brought the Law to the States back in December 2018. Indeed, some of the other questions that Deputy Merrett has raised, we sent an email last week and I would have hoped that would have sufficed, but I understand if she wants to mention it here so that she has got it on *Hansard*. That is fine. We need to go back to when we actually signed that and we covered that back in December 2018. If you want to go to *Hansard*, we covered it. Deputy Prow, I was very grateful for him at the time, because he was explaining how complex the situation is with Brexit, regarding the document that we actually signed.

1415 It was very much a case of there was limited time with which to give a firm indication on the Bailiwick's position and, along with the other Crown Dependencies, it was a tight deadline and we had to give our guidance as to whether Guernsey affirmed an interest or not. There was consultation with External Relations and that document was signed in London. If there is no deal that document will not come into play, there will be new negotiations.

1420 Just regarding signing it in London, I did it in my capacity as President of Home Affairs, which is and has long been deemed as the competent authority, which Deputy Merrett acknowledged, on customs matters, and I did this on the basis of the advice of External Relations, before doing so; putting us in the perfect situation regarding Brexit in light of what was happening. We had to act quick on that one.

1425 Regarding this legislation, I will cover some areas for it and I think it is worth actually expanding on it. The prospect of Brexit has brought us many things, including a major overhaul of our customs arrangements. As set out in the explanatory note, this Ordinance is made under

1430 powers created by the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018.

It provides for the imposition of civil penalties by the Committee *for* Home Affairs where people have been dishonest to evade paying customs or excise duty or where their conduct has otherwise led to a contravention of the Customs and Excise Laws. I should at this stage clarify that
1435 the function of determining and issuing penalties will, in all but the most exceptional cases, be fulfilled on the Committee's behalf by the Guernsey Border Agency, acting in accordance with a published scale of penalties and strict protocols.

It will not be the case of the politicians of Home Affairs sitting in judgement at our fortnightly meetings or, whether a particular individual or business should be fined and, if so, how much. It is
1440 rather that under the current customs arrangement, it is the Committee which is categorised as the competent authority.

As Members will recall, a customs arrangement has been agreed, which will enable us to continue to trade with the UK, as we do today, post-Brexit. This arrangement requires Guernsey's customs legislation, within the scope of that arrangement, to correspond with that of the UK. One
1445 of the significant areas which has been identified by H.M. Revenue and Customs as not being in keeping with both UK and indeed EU customs practice, relates to the use of penalties aimed at encouraging compliance with regulatory regimes.

This introduction of civil penalties through this Ordinance will address that anomaly by bringing our mechanisms for discouraging illegal behaviours into closer alignment with the UK. Whilst Brexit is the trigger for this Ordinance, the civil penalty regime would be needed in any
1450 event, in order to modernise our customs enforcement capabilities and keep us in line with other customs jurisdictions around the world.

The Guernsey Border Agencies need an effective and yet proportionate mechanism to ensure customs compliance and this is the opportune time to introduce these measures. This Ordinance is therefore needed, regardless of the outcomes of Brexit. It is expected to be a requirement of
1455 whichever future Customs Union we find ourselves in. The option of prosecution through the courts will remain and will of course continue to be used as appropriate.

Turning now to the make-up of the Ordinance. Section one sets out the circumstances in which a penalty may be imposed and factors which must and must not be taken into account when so
1460 deciding. Section two provides that a warning letter may be sent instead of imposing a penalty. Sections three and four set out a regime for written representations in respect of a notice of intent to impose a penalty and for appeals to be made to the Magistrates' Court. Section five provides for the Committee to determine and publish the full penalties or ranges or penalties that would normally be imposed by specific categories of conduct.

It is under this section that the Committee, having set out clearly the penalty criteria, will delegate the day-to-day administration to relevant officers within the Guernsey Border Agency. The Committee may, nonetheless, be involved in more complex cases. Potentially those are of the
1465 higher level but below that which would trigger a criminal prosecution. But the details of all these will be refined over time.

Section six relates to directors and other officers where a body corporate is liable to a penalty in respect of the dishonest evasion of duty. The remaining provisions deal with the service of notices, the meaning of evading duty and extent, citation and commencement.

I therefore ask the States to approve this Ordinance.

The Deputy Bailiff: Members of the States, there is a single Proposition, whether you are minded to approve the draft Ordinance, entitled the Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019. Those in favour; those against.
1475

Members voted Pour.

The Deputy Bailiff: I declare that duly carried.

COMMITTEE FOR ECONOMIC DEVELOPMENT

IV. The Public Holidays Ordinance, 2019 – Approved

Article IV.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Public Holidays Ordinance, 2019', and to direct that the same shall have effect as an Ordinance of the States.

1480 **The Deputy Greffier:** Article IV, the Committee for Economic Development – the Public Holidays Ordinance, 2019.

The Deputy Bailiff: Deputy Parkinson, do you wish to say anything?

1485 **Deputy Parkinson:** No, sir. This just gives effect to the States' decision of July 19th.

The Deputy Bailiff: Nobody is rising, so once again I put the draft Ordinance to you for approval. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare that duly carried.

COMMITTEE FOR HOME AFFAIRS

**V. The Probation (Bailiwick of Guernsey) Law, 2018
Commencement Ordinance, 2019 – Approved**

Article V.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled '#The Probation (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019', and to direct that the same shall have effect as an Ordinance of the States.

1490 **The Deputy Greffier:** Article V, Committee for Home Affairs – the Probation (Bailiwick of Guernsey) Law, 2018; Commencement Ordinance, 2019.

Deputy Lowe: I have nothing to add, sir.

1495 **The Deputy Bailiff:** Thank you very much, Deputy Lowe. Again, I will put the draft Ordinance to you. Those in favour of approving it; those against.

Members voted Pour.

The Deputy Bailiff: I declare that duly carried.

Procedural

The Deputy Greffier: Article VI, Committee for Employment & Social Security – Contributory Benefit and Contributions Rates for 2020.

1500

The Deputy Bailiff: Deputy Le Clerc, I imagine it would be more sensible to have a clean start on this debate after lunch. (**Several Members:** Hear, hear.) So we will adjourn now until 2.30 p.m., Members of the States.

*The Assembly adjourned at 12.28 p.m.
and resumed at 2.30 p.m.*

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

**VI. Contributory Benefit and Contribution Rates for 2020 –
Propositions carried**

Article VI.

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'Contributory benefit and contribution rates for 2020', dated 9th September 2019, they are of the opinion:

- 1. To set the contributions limits and rates as set out in Table 4 of that policy letter, from 1st January 2020.*
- 2. To set the standard rates of contributory social insurance benefits as set out in Table 6 of that policy letter, from 6th January 2020.*
- 3. To set the prescription charge per item of pharmaceutical benefit at £4.10, from 1st January 2020.*
- 4. To set the contribution (co-payment) required to be made by the claimant of care benefit, under the Long-term care Insurance Scheme, at £209.37 per week, from 6th January 2020.*
- 5. To set the maximum weekly long-term care benefit at the rates set out below, from 6th January 2020:*
 - a) £463.89 per week residential care benefit for persons resident in a residential home;*
 - b) £611.24 per week elderly mentally infirm (EMI) benefit for qualifying persons in a residential home; and*
 - c) £866.11 per week nursing care benefit for persons resident in a nursing home or the Guernsey Cheshire Home.*
- 6. To set the maximum weekly respite care benefit at the rates set out below, from 6th January 2020:*
 - a) £673.26 per week for persons receiving respite care in a residential home;*
 - b) £820.61 per week for the elderly mentally infirm (EMI) rate for persons receiving respite care in a residential home; and*
 - c) £1,075.48 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home.*
- 7. To rename "old age pension" as "States pension" and to make all necessary amendments to legislation to allow and reflect the name change.*
- 8. To note that the Committee intends to amend relevant legislation to enable prisoners of pension age to receive a lump sum payment of their pension, for that part of their imprisonment which is equivalent to the period that prisoners under pension age participate in the Release on Temporary Licence Scheme.*

9. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

1505 **The Deputy Bailiff:** Well, Members of the States, we will now start on the Committee for Employment & Social Security's Contributory Benefit and Contribution Rates for 2020 Propositions. I invite the President, Deputy Le Clerc, to open the debate.

Deputy Le Clerc: Thank you, sir.

1510 I am pleased to present today the Committee's proposals for contributory benefits. I will keep this introduction short as the report is self-explanatory and follows the previous formula of reports. This policy letter deals with benefits funded by Social Security contributions and the accumulated reserves of the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long Term Care Insurance Fund.

1515 For 2020, contributory benefits such as pensions, sickness benefit and other earnings replacement benefits will follow the usual uprating policy. That is RPIX plus one third of the difference between RPIX and median earnings, which increases benefit rates by 2.4% for 2020. This uprating policy ensures that there is a link between the inflation of Guernsey prices and with earnings. Long Term care benefits will follow previous years' formulas of an RPIX increase of 1.9%.

1520 Over the past few years I have expressed concern about the sustainability of the Funds and this year is no different. However, as pointed out in section 2.4 of the policy letter as well as waiting for the outcome of the various policy letters that may propose contribution increases as funding options, we will also need to consider the outcome of next year's actuarial review before making any further proposals in respect of contribution increases.

1525 On the subject of pensions the Committee is proposing that the name of the old age pension is changed to States' pension. This is because we have received complaints from Islanders that 'old age' is an outdated term. We agree that the label is no longer fitting and that States' pension is more appropriate.

1530 Finally, I would like to take this opportunity to remind Deputies and listeners to this debate that 2020 will be the first year that the age to receive the States' pension will be increasing by two months every 10 months. This policy was approved by the States back in 2009 to give 10 years notice of this major change, but it becomes very real from 2020. This means that a person who reaches 65 between 1st January and 31st October 2020 will have to wait an extra two months after their birth date to receive their pension. Anyone who reaches 65 between 1st November 2020 and 31st August 2021 will have to wait four months and so on. This incremental increase in pension age will continue at this rate until 2049 when the pension age will have reached 70.

1535 Sir, I ask the States to support these Propositions.
Thank you.

1540 **The Deputy Bailiff:** Deputy Graham.

Deputy Graham: Thank you, sir.

1545 I would just like to let all the Members know that I do not mind at all, in fact I invite Members to refer to me as being old – (*Interjection*) Sorry, I am having trouble ... (**A Member:** Obviously.) (*Laughter*) I think I draw the line at *ancient* but there we are!

I can understand the sensitivities to which Deputy Le Clerc and her Committee responded but I thought the old term actually described exactly what it was: you had to be old to get this pension but there you go perhaps I am even older than I thought.

1550 **The Deputy Bailiff:** Deputy Lester Queripel.

Deputy Lester Queripel: Sir, perhaps I should have known that when a person is sent to prison all their benefits stop automatically as we are told in paragraph 5.8 of this policy letter. But up until I actually read that paragraph I am afraid I was not aware of that so I hold my hands up to that one.

1555 But now that I am aware of that fact I am now wondering if there is anything we as an Assembly can do to address that issue, or better still do the Committee themselves intend doing anything to address it, because as we all know, Propositions have far more chance of succeeding if they are led by the Committee as opposed to being led by two Deputies via an amendment.

1560 So my first question to Deputy Le Clerc: does the Committee have any intention of laying a Proposition in front of the Assembly any time soon that seeks to ensure people who are in receipt of benefit payment normally continue to receive those benefit payments when they are sent to prison?

1565 Sir, that is the first of many questions I shall be asking in this speech. Therefore I want to emphasise, in the interests of openness honesty and transparency, I have given Deputy Le Clerc prior notice of all of my questions.

1570 Now I am asking all these questions because I am wondering how a person who is normally in receipt of benefit payments is actually expected to pay their rent or their mortgage and their bills when they are sent to prison. Because we are not only talking about pensioners here we are talking about disabled people and people who are unemployed who perhaps through no fault of their own they have been made redundant and out of desperation they turn to crime. So those people have no other income apart from their benefit payments and they have no savings; how are they expected to pay their rent and their bills whilst they are in prison? That is my second question to Deputy Le Clerc, sir, because surely if they cannot pay their rent and their bills and there is every possibility that their landlord will evict them and they will be homeless.

1575 So my next question, sir, on that point is if a social housing tenant is put in prison for say 12 weeks do States' Housing allow that tenant to remain a tenant even though they cannot afford to pay their rent and then seek to recover the rent upon the prisoner's release, or do they seek to evict the tenant from the property once they have established the tenant is unable to pay the rent?

1580 In asking that question, sir, I am only too aware that we are told in the same paragraph 5.8 that prisoners under pension age earn a small wage from participation in the Release on Temporary Licence scheme. I presume that small wage is not enough to pay their rent or mortgage or bills and anyway it only kicks in for the last few months of their sentence, which we are told in paragraph 5.11 is the last 18 weeks of their sentence, to be precise. So someone serving a 12-week sentence does not qualify for that scheme and therefore it would appear is completely abandoned if they have no savings or no other source of income.

1590 So my next question to Deputy Le Clerc is this: do the Committee consider that to be part of the prisoners' punishment? Do the Committee consider it to be part of a prisoner's punishment to have to endure the stress of financial hardship? I ask that question because of what we are told in paragraph 5.9, we are told in that paragraph:

There has been international discussion on whether prisoners should be able to receive their state pension for the duration of their sentence.

And that the Supreme Court in Ireland had a ruling in 2017:

... where legislation disqualifying a person from receiving any benefit while imprisoned was challenged [it was challenged] on the basis that people have a right to access justice through the courts system, and that disqualification from receiving their pension could be considered to be an additional punishment to that which had been imposed [on them] by the [courts].

That is why I asked that question, sir. The paragraph ends by telling us the following:

While this argument has not been tested through the Guernsey court system, it adds to the Committee's justification for reconsidering the total disqualification of pensions during imprisonment.

1595 Well, sir, a couple of points on that. The Committee may well have reconsidered the total disqualification of pensions during imprisonment but they are not putting forward any Propositions that seek to eliminate disqualification of pensions during imprisonment, which concerns me somewhat.

Yes, they are addressing and seeking to amend the disqualification of pensions to pensioners serving sentences of longer than 18 weeks, and I commend them for that but that is of no comfort whatsoever to a pensioner serving a sentence of less than 18 weeks.

1600 So my next question to Deputy Le Clerc is: can she tell me please why her Committee are not recommending that all pensioners continue to receive their benefit payments whilst in prison? As a direct follow-on from that question, my next question is: can Deputy Le Clerc tell me please why her Committee are not recommending that benefit payments continue to be paid to all recipients whilst in prison?

1605 Following on from that question, my next question is: can Deputy Le Clerc tell me please how much money did her Department save by not continuing to pay benefit payments to people who would normally be in receipt of them who were sent to prison in 2018? Also what happens to that money, does it stay in the pot, as it were, or do they even get a lump sum at the end of their prison sentence? If Deputy Le Clerc does not have that information to hand, sir, I am more than willing to submit Rule 14 questions.

1610 Getting back to being told in this policy letter:

... that the Supreme Court in Ireland had a ruling in 2017 where legislation disqualifying a person from receiving any benefit while imprisoned was challenged ...

Can Deputy Le Clerc tell us please what the actual result of that ruling was, I could not see the result in the report?

1615 That is my eighth question I do have on other one I want to ask in a minute but before I do that I just want to say that it seems to me as though this issue of pensioners' benefits and prisoners' benefits being stopped automatically needs to be addressed and rectified especially when the Committee themselves tell us at the bottom of paragraph 5.10 that they consider:

... the current suspension of pensions has a negative impact on [pensioner's] lives after prison, as they may be released with no savings to help them resettle in the community. This may increase their susceptibility to homelessness, the likelihood of reoffending, and their reliance on income support.

1620 I am sure that applies to all prisoners of all ages not just pensioners, especially when one bears in mind that we are told again in paragraph 5.8 where we are told that prisoners participating in a release on temporary licence scheme can save money from the small wage they receive and this cash may help the ex-offender with the deposit on a rental property and also help to resettle them into the community.

1625 On that point, sir, I am wondering how much a prisoner can actually earn in their last 18 weeks in prison bearing in mind we are told it is a small wage so that is my ninth and final question to Deputy Le Clerc. How much can a prisoner actually earn in their last 18 weeks in prison?

1630 So moving toward a conclusion, I have the utmost respect for my colleagues on the Committee and all the staff in the office of Employment & Social Security. I have said that consistently in my speeches in this Chamber during States' debates in the last seven years. However, it seems to me as though ESS are offering a partial solution to a problem when what is really needed is a comprehensive solution. More so now than ever when one bears in mind we all attest to aspire to an inclusive society.

It seems to me, I stand to be corrected but it seems to me, we exclude ex-offenders from our society to a certain extent by making life even harder for them upon their release from prison. I

1635 say that because their financial situation has been weakened considerably, possibly even devastated completely, due to their not receiving benefit payments while they are in prison.

So I sincerely hope Deputy Le Clerc is able to allay my concerns and provide me with some comfort when she responds. I have every faith, sir, that there are perfectly good answers to all my questions.

Thank you, sir.

1640 **The Deputy Bailiff:** Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

1645 I hope that Deputy Queripel is not risking the defeat of the proposal by drawing it to the attention of the States but I fear he might be, because I think the Committee is moving probably about as far as most people are prepared to tolerate on this issue and there are a lot of people listening to this – well there might not be a lot of people listening to this debate but if anyone is listening to this debate a lot of them probably will be shouting at their radios saying in response to what Deputy Queripel is saying, 'Well if they had not committed a crime they would not be in
1650 prison in the first place and they would not be in that position where they had lost their pension entitlement!'

Now I happen actually to share the views that Deputy Queripel was setting out and I put that view when I was a Member of Deputy Le Clerc's Committee, but I think the Committee probably has come up with a compromise which hopefully the States are prepared to live with without
1655 making or dragging the States into this really quite, or what would be I think a really quite, contentious argument about whether or not prisoners should lose pension entitlement for the duration of their sentences.

I wanted to make three or four points on the proposals in the policy letter, sir.

1660 First of all, something around Newborn Care Allowance. Deputy Le Clerc knows what I am going to say. When I was a Member of the Committee it came to my attention through some parishioners' cases that there was an oddity around the payment of Newborn Care Allowance and it is quite a complex situation but in a nutshell all contributory benefits require the beneficiary to have established a qualifying period and there is something called a contribution year and it is based on the contribution year that a person is entitlement is calculated.

1665 Now for most benefits it works perfectly adequately but for Newborn Care Allowance the actual contribution year that is taken into account when determining the mother's entitlement is usually before she has even fallen pregnant, it is too far before the birth, so the consequence of this is that there are cases where mothers can have been in work and contributing and then had a period not contributing for whatever reason, they could have been out of the Island, quite a long
1670 period not contributing before the birth and they are still entitled to Newborn Care Allowance because the qualifying period taken into account is sufficiently distant in front of the moment of birth, whereas a mother who has perhaps been away from the Island could have been a university student or somebody working away and has had a period not contributing, then returns to the Island and contributes, pays contributions for months and months before the birth then is not
1675 entitled to Newborn Care Allowance.

Now in my view, and I think in the view of the Committee, that is not really the way in which the scheme is meant to work and this could be put right by a relatively straightforward amendment or addition to the legislation, which could be done by ordinance. The primary
1680 legislation does not need to change, the term 'relevant contribution year' could just be further defined or the definition could be added to in the relevant ordinance.

I would like the Committee *for* Employment & Social Security to confirm that they are prepared to pursue this issue and to lay the necessary proposals before the States to ensure that the purpose of Newborn Care Allowance is being properly achieved in the actual wording of the legislation. But the principle is that the people who receive Newborn Care Allowance should be

1685 the people who for a reasonable period before the birth of the child were paying social insurance contributions, and there should not be cases where people are receiving that benefit having not paid contributions for a reasonable period immediately before the birth. Because at the moment there is the potential for people who ought to be entitled not to be recipients and people who ought not to be entitled to be recipients. I think that needs to be corrected.

1690 I almost laid an amendment and if Deputy Le Clerc is not able in her summing up to provide some assurance that her Committee will be able to return to the States in this term to resolve this problem I might see if I can get away with an amendment on their next policy letter even though it is on non-contributory benefits, but I think Deputy Le Clerc will be able to give the assurance I seek. She is rolling her eyes, but I hope she can.

1695 Now the second point concerns the review of pension uprating policy. At page 4 of the policy letter it sets out what the current uprating policy is and that there is a States' Resolution in place requiring the policy to be reconsidered by no later than 2020. Now the Committee is saying that they will be reporting back to the States more fully in next year's policy letter on contributory benefit and contribution rates for 2021.

1700 Now the rationale for this is that they know there are other expenditure pressures and pressures on social insurance contributions and general revenue taxes and charges, and that these things ought to be considered in the round. I am always slightly nervous when I hear that argument because there is always a danger in the States that you do not do anything until you can do everything and you end up doing nothing. But I think actually the case is made quite well
1705 in this policy letter for why there is not a proposed increase in the uprating or a change in the uprating policy for this year.

What concerns me is that next year's uprating report will not be presented until after the Election. The problem with that is that I am not quite sure how – what is it, October? – so I do not know when this policy letter had to be submitted – 9th September? Well a new Committee is not going to be elected until just a few weeks before this policy letter will need to be submitted next year. I am not quite sure what level of confidence we can have that that Committee is going to be able to carry out a thorough review of pension uprating policy and bring to the States proposals for the future uprating policy in time for next year's policy letter.

1710 In addition to that, at paragraph 2.6 it states that:

The periodic actuarial review of the Guernsey Insurance Fund for ... [the period] 2015 to 2019 ... will take place during 2020.

1715 Now I do not know when that is. I do not know whether that is very early in 2020 or later in the year. But I do have a concern that the, I think, very important States' Resolution that the pension uprating policy should be revised in 2020 may not be discharged in 2020 and if it does not under the direction of travel set out in the current policy, the uprating of the pension in the year 2021 will be lower than the uprating of the pension has been in recent years, because the direction of travel established by the States in 2015 was that the uprating of the pension would be reduced to RPIX only in future years.
1720

At the moment it is – I can never express this properly – but one third of the difference in the increase between RPIX and median earnings which tends to track above RPIX. Well the long-term direction of travel set out in the existing policy is to reduce that to RPIX increases only and if that policy has not been revised by this time next year then I have a fear that the pension uprating from 2021 will be smaller than, or the policy will be less generous than, it is at the present time. So I would like Deputy Le Clerc to provide some clarity around that.
1725

Page 10 tells us that there are now something like 1,200 plus contributors, that includes where they are employed persons, that includes the employer and the employee, but there are 1,200 plus contributors whose social insurance contributions are currently capped in the sense that their earnings exceed the upper earnings limit.
1730

1735 Now why I think this is relevant is because the old insurance principle which determined the upper earnings limit no longer applies. The upper earnings limit now is essentially whatever the States think they can get away with without being unnecessarily harsh on higher earners, which is not really a very sound policy basis for doing it.

1740 But I do think that now that it has reached 1,200-plus contributors it is reasonable to ask, given that the old insurance principle has been broken, whether there is further scope materially to increase the upper earnings limit. Or if there is not, knowing that the Policy & Resources Committee is going to be coming to the States either having carried out or asking for permission to carry out, or whatever it is, a complete review of fiscal policy I think it is going to be necessary to include consideration of the upper earnings limit within that review. Because at the moment we do have a situation where the insurance principle has been broken and yet 1,200 people who are earning, or whose earnings or income succeed the upper earnings limit are paying social insurance contributions. In terms of an effective rate of social insurance contribution it is slower than for people who earn a third or a quarter or a half of those high earners. I do not think that is sustainable given that the insurance principle has now been broken.

1745 So I think what I am seeking is some assurance from Deputy Le Clerc, if she is able to provide it, that the future of social insurance contributions including the upper earnings limit will be included in the review which the Policy & Resources Committee is going to carry out or propose in the early months of next year.

1750 One final point, sir, I thought when this policy letter came out that it might include reference to a compensation scheme for sufferers of mesothelioma which I have had an interest in pursuing for some time. Now my understanding is that I thought that it would be through the contributory insurance schemes that that kind of compensation scheme would be established. I am told that there is a risk if that is done of establishing implied liability on behalf of the States which should be avoided and therefore if a compensation scheme is going to be set up it is appropriate that it should be funded from general revenue.

1755 Now I am not sure I completely agree with that. I think it would have been much easier to have set it up through the social insurance scheme. It certainly would have been eminently more affordable and it could have been paid for from the Guernsey Insurance Fund, but I accept the argument put forward by the Committee for Employment & Social Security; but I will be laying an amendment to their next policy letter on the non-contributory schemes inviting the States to direct the Committee to set up a mesothelioma compensation scheme either for next year or for the year after.

1760 Thank you, sir.

The Deputy Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir.

1770 I just want to speak a bit on the same topic as Deputy Lester Queripel and about pensioners receiving their pensions while in prison.

1775 I would just like to paint a scenario if I could: pensioner gets banged up for 10 years for a string of serious sexual offences spanning decades – he gets released after five years. If he were to be receiving his Guernsey pension he would be leaving prison with a payment in excess of £50,000. Do you think that the victims of this person would feel that was justice?

Thank you.

The Deputy Bailiff: Deputy Roffey.

1780 **Deputy Roffey:** Thank you, sir.

In a minute I want to focus on contributions and paragraphs 2.4 and 2.5 on page 5. But just a couple of comments on what people have already said. Deputy Graham, if he thinks we are being

far too politically correct I have some sympathy. Just vote against Proposition 7, I think, is the solution there for Deputy Graham.

1785 This whole business about pensions in prison, it feels as if the Committee is damned if it does and damned if it does not. For donkeys' years the States' pension has not been payable to prisoners, and if we had not addressed that and said nothing in the policy letter then sure as eggs nobody would have brought it up, it would simply have been accepted that we just carry on with the existing policy.

1790 But we felt that we ought to look at it. There is an argument to say this is a contributory scheme and therefore people should be able to carry on getting the benefits that come from that. Indeed if you had an occupational pension scheme from a private employer it would not be stopped because you were in prison, you would be carrying on paying it.

1795 But we had to balance up what we thought the response not only of this Assembly would be but of the community, and I think Deputy Leadbeater has got it about right because that is exactly ... I do not know how much it costs to keep a prisoner in prison but I think if we had come back and suddenly said, 'We want to, however long a stretch you are serving, allow you – we will keep you at taxpayers cost and at the end of that time if you are a single person on a single pension it is north of £200 a week so you are going to have more than £50,000 as a bonus when you come out.' When you think of some of the other groups that are in poverty in this Island I think we would have been laughed out of Court.

1800 What we are doing with the 18 weeks is, I think, making a very rational parallel with where prisoners who are under pension age and are going out to work on-licence before they are discharged are allowed to accumulate a sum to make sure that they are not suddenly set loose in the world with no means to actually look after themselves. If they are on a full pension then we are still talking somewhere above £3,600 when they come out. We think that that is a good compromise.

1805 Now if Deputy Queripel does not, if he thinks we are misreading the community and this Chamber the option was there, a simple amendment, just to say that we should pay pension throughout the time of any prison sentence no matter what length could have been put forward he would have tested the waters today. I am pretty sure it would have been rejected and that Members would be more likely to go with what we are putting forward. But before quizzing us – are we going to bring it forward, I want this question answered – the answer was in his hands, sir; all he had to do was lay an amendment and we would have found out what this Assembly felt.

1810 Now, sir, on the question of contribution increases, I think it has been as plain as a pikestaff for four or five years that the General Insurance Fund has needed beyond doubt an increase in contribution levels in order to attain sustainability. It does not matter what other pressures are coming whether it is secondary pensions, long-term care insurance, NICE approved drugs, I do not believe for one second that this Assembly, and they may not do any of those things, but the one thing they are not going to do is say let's take away, whatever you call it, the old age pension or the States' pension – at the moment it is still the old age pension until we vote, so I will call it that. They are not going to take it away so we need that fund to be sustainable and, frankly, sir, I think we have been as an Assembly sticking our head in the sand.

1815 Actually if we had done it two or three years ago I think it would have been better than waiting to compare it sometime next year alongside all those other spending possibilities for this simple reason. If you take too much spending power out of an economy at one go it is like putting it in a cold shower. We saw it down in Jersey: somebody in 3% GST, it took the whole oomph out of their economy for a year to 2,000 unemployed. I say it as President of the Co-op, what happened with people's spending patterns and it was repeated to a lesser extent with the 2% increase from 1820 3% to 5% that came later on. So it is far better to drip feed in. I mean they recovered and we would recover from taking the money out of the economy, but it takes time. It deflates an economy. It is a head wind that it does not need, and it is far better done dripping in than done all in one go.

1835 So whereas I would have – I have to say I was out of circulation when my Committee agreed with P&R that this should be put back until next year and I am a good corporate player, I was not going to try and put an amendment to my own Committee’s policy letter because I had not been there on the day. But, yes, Deputy Gollop would have done, I know, but I do not do that sort of thing too often.

1840 But I do think it is wrong, I think it is an error. I really hope that some of the other spending priorities are able to be afforded. I am slightly confused, I mean I do not want to jump ahead to the Budget debate, but I am slightly confused: we are being asked to do a balanced budget for next year but without raising the revenue for some things we know we want to do next year. It is a really odd situation. I mean are we going to fund any more drugs as it sort of says we might do here? If we are going to, surely when you set your spending and therefore your revenue raising requirements for next year that is the time to do it and yet we are being told not to. But anyway
1845 that is probably a debate for another day, sir, I accept that, it is just that it is mentioned in here as a reason for delaying on this.

We are going to delay on this. I think we have delayed three or four years too long. As we go through our reserves so the returns on investments dwindle because there are fewer investments
1850 to invest a smaller fund to invest and therefore the returns get lower. I think it has been a political weakness, frankly. We know that the community did not want it so we kicked it down the road time after time for about the last three or four years. I really hope this is for the last time because whatever we do about secondary pensions, NICE drugs, long-term care insurance, for which there are options other than increasing contributions by the way, in order to make that sustainable, we
1855 will want to carry on maintaining the real value of the old age pension and that is going to require an increase in contributions, and the longer you put it off the harder the medicine is going to be. So my personal view is that this Assembly for really throughout the life of this Assembly has just balked at this one and balked at it in a way that is not going to benefit them or the Funds. But I have got that off my chest so I –

1860 I give way.

Deputy Fallaize: I am grateful to Deputy Roffey.

Although I agree with him in policy terms I am not sure he is quite right. He is giving his Committee a bit of a kicking but I feel obliged to defend them because is it not right to say that
1865 actually the pension can be maintained in real terms, because to most people that means in line with changes in inflation? It can be maintained in real terms without any increase in the contribution rate. The issue is that the pension should be, in my view – it may not be a view shared by other Members – increased by a rate greater than the rate of inflation, ideally by earnings, but at least by half way between earnings and inflation and earnings. But I do not think
1870 it is right to say that the Fund will run out if the pension is increased in line with inflation from next year. Certainly that was not the case when the States were presented with the last actuarial review, but I do not know whether that remains the case.

Deputy Roffey: I certainly believe it is the case now, sir, that without an increase, obviously we
1875 could uplift it by less than inflation, we could reduce the pension, we could do anything in order to make sure it was sustainable. Do not take out more from the Fund than you put in, but politically that is not acceptable, and nor should it be, and my understanding is that even with RPIX increases which would mean that pensioners got relatively poorer compared with the rest of the community, we would still need to see some increase in contribution in order to be
1880 sustainable. I do not see £24 million just going out of the fund last year like that because we have had to rely on it, rely on that buffer, we are running through that buffer and just like we should not have been running through the Island’s strategic reserves – we had no choice, I know – but it was regrettable we had to do it while we brought the budget back into balance. I do not think we should be doing it with this Fund either.

1885 One final thing before sitting down. Deputy Fallaize raises a valid point about the number of
people paying at the earnings cap for Social Security, but it is not as straight forward as he makes
it sound, because P&R have chosen, and I can understand the reasons to choose the point at
1890 which they start to phase out the personal tax allowance to sort of harmonise with the point
where people are no longer paying extra in Social Security. So there would need to be a co-
ordinated ... it would be no good us just saying, 'Oh, we could put more money in the Fund. These
are wealthy people, why should they be paying at a smaller rate than people on half the amount
of earnings?' It would need to be a very co-ordinated and thoughtful approach in order to do
that. I agree it is worth looking at but I do not think it is as simple as he made it sound.

Thank you, sir.

1895

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Thank you, sir.

1900 I just want to rise to speak for a few minutes on the same issue as Deputy Roffey in relation to
contribution rates and it is timely that I am able to do so straight after he has spoken, and indeed
Deputy Fallaize's comments about the need for the States to set the policy in relation to the
uprating of the old age pension, or the States' pension as it is to be called.

1905 If we just wind back and remember that in the UK system the equivalent States' pension is of
course a pay-as-you-go fund, in other words it is funded by today's taxpayers from current
taxation each and every year. Now we of course have the Guernsey Insurance Fund which
underpins our liability to future pensioners and we of course dutifully have an actuarial review
undertaken of that Fund from time to time, but of course it is not in the same sense as the
occupational pension scheme for public service employees. It is not a proper pension scheme, it is
merely, to use the language that Deputy Roffey used, a buffer fund providing roughly at the
1910 moment about five to six years of spending. In other words, if no further contributions went in
from today we could continue to meet our liabilities in full to those in receipt of pensions for the
next five to six years.

1915 The policy which has been determined by the Committee *for* Employment & Social Security is
that we should be seeking really to ensure that that buffer fund always has at least two years'
funding in it.

Now the reference which Deputy Roffey made to 2.4 in the policy letter notes that the current
contribution rates are insufficient and indeed referred to having discussed the matter with Policy
& Resources and cites a number of reasons why the matter should not be dealt with now.

1920 I do not think Deputy Roffey was at that meeting but there was another reason that was raised
at that meeting which does not appear in this list and which is the matter that I wish to speak to
now. I suspect other Members of the Committee *for* Employment & Social Security will know
where I am headed with this and will probably be inwardly groaning, but I am going to go there
nonetheless anyway, because one of the key concerns for me, and it is an issue which I have raised
a number of times between the committees over recent years, is the assumptions which are used
1925 in relation to investment returns.

Whereas the investment policy that we have in relation to the Guernsey Insurance Fund, the
so-called common investment reserve, is considerably more conservative than that which we
apply to the consolidated reserve which is that which underpins the occupational pension scheme
and indeed our other reserves.

1930 Now there is good reason for that, because we have created these separate pots and we have
one sitting under the governance of Employment & Social Security and the Committee are
looking at that pot in isolation, and they are quite reasonably saying, 'Well, we are now in a
rundown, that pot is being drawn down, the sums being drawn from it each and every year are
greater than the sums going into it.' We know that we are heading towards the two-year buffer

1935 that we have set as our limit, therefore we need to do something about it, and that in turn because it is in rundown is, as Deputy Roffey said, driving a more conservative investment policy.

1940 However, I put it to Members of the Assembly, sir, that this is a deeply flawed logic. If there is a shortfall on the liability within that Fund that liability and shortfall will not fall on the Committee for Employment & Social Security, it is going to fall on the States as a whole, in other words on taxpayers as a whole, and therefore what we need to be doing is we should be managing our liabilities at States' level not at committee level. That would drive, I would suggest, a different investment policy.

1945 Now let's be very clear I am not suggesting in any way that we are seeking to break the ring-fence which is around the Guernsey Insurance fund that should, in my view, absolutely stay in place; it is there by statute and it needs to remain there, but I think we can adopt a common investment policy.

1950 Just by way of illustration, at the 31st August this year the Common Investment Fund for Employment & Social Security had £918 million in it. The investment policy is Libor plus 3.5%, that is the investment target, that is what we are trying to achieve. The Consolidated Reserve has about £2.2 billion in it. That has an investment objective of RPI plus 4%. Now if you look at the experience over the last five years the Common Investment Fund has obtained a return of 4.15% each over the last five and the Consolidated Reserve has obtained a return of £6.31%. Now that is a difference of 2.16% each and every year. If we choose to project that forward over the next say five or 10 years or indeed you could go the other way and say had we obtained that over the last 1955 10 years – but let's take the numbers we have currently got, £918 million – if we continue to operate with that difference between those two returns that is a difference over 10 years of compounding effect of £218 million. That is 23% that is a whole year's additional buffer.

1960 So really what I am saying is that we absolutely cannot ignore this issue, we have a responsibility. We, the States of Deliberation as a whole, have a responsibility to consider and address this, and I was absolutely emphatic in that meeting with Employment & Social Security that I cannot and will not support any further increase in contributions until we have properly considered that issue.

1965 I think what we need to do, we need to do it in conjunction with, as Deputy Fallaize has said, a decision about our uprating policy and then the States can make fully informed decisions about what the future contribution rate would be.

1970 I will not submit to the idea that we can put a further burden on Islanders in relation to higher contributions until we have developed and implemented a common investment policy and we have modelled the impact of that on the Fund. I am not suggesting in any way that it will necessarily entirely mitigate the need for an increase in the way that Deputy Roffey has suggested, but I think based on our investment experience over a considerable number of years now, that if we are able to increase that investment return with a different investment policy, which we can do if we think about our net assets rather than thinking about our liabilities in individual areas of the States then that will make a significant difference and it is a very important point and it must be one that does not rest here today, sir.

1975

The Deputy Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

1980 I would like to start by just adding my voice in respect of Proposition 7. I think it is a simple change of words, it does make a difference although for me having been brought up in the UK I have always called it the state pension, now I will just have to add an 's' and I will be on-line.

1985 Now the next Proposition, Proposition 8, for fear of hijacking this debate on this I have looked into just a couple of points on this which I think are worth mentioning because the point here is the Irish court case which has been referred to was actually in 2017 and looked at whether the wording of the section in the Irish Social Welfare Consolidation Act 2005 which disqualified

persons otherwise qualified for various welfare benefits whilst in prisons or detailed in legal custody, and the court declared the relevant section to be invalid and in breach of their constitution, and also it does not seem to mention human rights, but that may well just be the way it has been reported.

1990 But it then goes on to say that the decision of the Supreme Court in 2017 was held back because it could, according to the Supreme Court, be dealt with through legislation. So for me this is a question of policy direction and also of course we are told in the policy letter that this particular amendment for 18 weeks will be through regulations and of course the wording of those regulations has got to be skilfully done, which I am sure the legislative drafters will do, but
1995 of course it will not have the scrutiny of the Legislation Review Panel but obviously that is important because we have got to avoid any challenge to enable for if this policy approach is taken. Unless, and this is the point I think Deputy Roffey has made, this matter can be decided differently in this Assembly.

2000 So I would just like to reflect, and this is really why I have raised it, because one of the comments about the Irish case was mentioned because what could actually happen if payments are made to people in prison then there is the benefit of victims being able to apply for what is known in Ireland and I am familiar with a Garnishee Order which basically means that the payments would be held by the court pending a decision that it could be paid to the victims and not to the convicted person (**A Member:** Hear, hear.) and Mr Burke who is a Fine Gael Senator
2005 and also a solicitor goes on to say:

I would like to see a situation where a judge makes this order automatically as part of sentencing process, where any State benefit received goes directly to the victims.

That is why I wanted to raise this because I think that is quite an important aspect that could be considered. I am not, as we know, a Guernsey advocate, I do not know what the current rules are, but I thought that was worth mentioning. You give with one hand but who are you giving it to.

2010 To follow on, I would like to just have a couple of other observations, so for example I was pleased to see in 5.12 it raises two points and that is with regard to the negotiations for a reciprocal Social Security agreement on pensions between Guernsey and Latvia. It raises two points here which is first and foremost – well not foremost actually, firstly – this entrustment that Guernsey has been entrusted by the UK to enter into negotiations something which obviously on
2015 an international level is very important that we were able to continue to do entrustment negotiations, but also of course in the last sentence:

This agreement is a positive step towards recognising the contributions paid by Latvians while working in Guernsey.

2020 Lastly, what I would like to say is that I read a particular paragraph – which of course now I cannot find, here we go – which for me sums up a particular aspect which no doubt will be discussed further in the Budget. I mentioned this to Deputy Le Clerc yesterday because I felt this paragraph really did epitomise a particular aspect of Guernsey and how we fund our health care. Paragraph 4.2 deals with the grant from general revenue to the Guernsey Health Service Fund which has been suspended since 2017. It goes on to say that:

The Committee [is] not ... proposing the reinstatement of the grant in 2020, which [will] mean that it will be the fourth year that the Guernsey Health Service Fund will not receive the grant ... [But] The Committee wants it noted that this amounts to £19.9m of income into the Fund foregone since 2017, which includes the forecast amount of £5.2m for 2020.

2025 Whilst I appreciate there are reasons, it just begs the question of wouldn't that be a nice fund to have had to be able to transfer to Health & Social Care in order for us to be able to fund for the health and care service that we the people on this Island, and in the Bailiwick for that matter, need.

Thank you, sir.

The Deputy Bailiff: Deputy Dorey.

2030

Deputy Dorey: Thank you, Mr Deputy Bailiff.

I was pleased to hear Deputy St Pier's speech because I think I have made the point in presentations before and I challenge him not to just say the words but actually take action, because I think we need to take action.

2035

We are dealing with very significant sums of money for this Island and we should be maximising our return on them and I think in the past there has been a sort of almost competition between T&R and Social Security which was not beneficial to the Island.

2040

I think we have moved considerably on in terms of Government that we need to have centres of expertise within Government and they should be responsible for that particular area. So I challenge him: follow up your speech with actions and let's have a centre of expertise for investments and let's make the most of our money, very considerable sums of money, for the benefit of Islanders, because actually we are dealing with very considerable sums, not just the capital but the possible returns when you think about the numbers we are dealing with in the Budget, they make those numbers look very small. So take action because that is what we should do.

2045

When I was at Social Security we did review our investment advisors and there was almost the idea that we should keep them separate for security, but that is old thought and we must move on, and I tried to involve the T&R expertise, having sat on T&R under Deputy Trott, in those decisions, but I think we have to now move a lot closer.

2050

Again continuing on the point on –
I will give way.

Deputy St Pier: Sir, I am grateful to Deputy Dorey for giving way and I am pleased to say I am delighted to take up his challenge for action.

2055

But would he perhaps agree with me that it would also obviously be helpful perhaps for him to present the same challenge to the Committee for Employment & Social Security.

Deputy Dorey: I agree, but as P&R I think you have got responsibility to lead. (*Interjections*) That was the benefit of the Government changes we made.

2060

Continuing on the pension increase, I think Deputy Roffey talked about we should have increased to contribution rate, but I go back to 2009 when we identified that the contribution rate needed to increase and that was when the proposals to change the pension age and it was a package which also included increasing contributions. Unfortunately, the States did vote for the change in the pension age which is going to start next year, but it also failed to vote for what it should have done which was to increase the contribution rate.

2065

Why I say that is that what perhaps Members do not remember is the anti-poverty strategy we had, and that was going back nearly 20 years ago, and one of the key areas identified was single pensioners and they were living in poverty and we wanted to change that and one of the things to stop that happening is to make sure they do not get into relative poverty, and one of the key factors is that pensions should increase with median earnings and this is double lock because it is with inflation or median earnings to make sure that their spending power relative to the community they live in stays the same. Because in the long term ... and that had been the policy for many years, was just increase RPI but if everybody out in the community is increasing by median earnings eventually they become significantly poorer relative to the community. So I did not support the equation or formula that is in 1.5 which talks about a third of the difference of the increase between earnings and RPI which results in 1.9% plus 0.5% equalling 2.4%. We should be increasing pensions by 3.3%. If we do not want to have our pensioners going into relative poverty

2075

2080 **(A Member:** Hear, hear.) and this is particularly important because we have not got secondary pensions yet, and secondary pensions is a long way off in relation to making serious contributions to pensioners' income. So I am disappointed.

I agree with what Deputy Fallaize said about that: we should be reviewing that formula. I do not agree with the formula and the fact that a third of the difference between the increase of the two runs out this year highlights why we should have that proposal come back.

2085 I never like the proposals of the calculation coming back at the same time as the outcome of the use of the formula because then it is very difficult to amend it. I would rather there was a separate policy letter which looked at that particular issue and effectively that formula did not come out in the uprating report, it came out in a review of tax benefits which was done in 2015.

2090 Perhaps it is too late but I would urge ESS to look at bringing the report separate to the uprating report on the formula because perhaps, as Deputy Fallaize said about the timetable, there is not the time to do it, but that would be the better way forward so that we could have a policy separate to the report on what the formula should be for the increase because I believe it should be this double lock if we want to avoid getting into the situation.

2095 The trouble is you can do it for a number of years, not increase it by median earnings, and it all seems all right but it suddenly reaches a situation where you get into relative poverty and you have to have a major change, which is exactly what happened from the anti-poverty strategy: we suddenly realised that we had got ourselves into a serious problem. The way to do that is not to have a big jump but to do the annual increases which you should do as a community.

2100 On the health service benefits, the Health Service Fund and the health service benefits, I am disappointed that the medical benefit grant still remains at £12, the cost of the prescription has increased by 10p, and I know the Health Service Fund's days are numbered but there is an acceptance that we can affect the prescription rates but we are not going to do the medical benefit rate.

2105 I appreciate the work that Social Security has done and they have involved myself and Education on my amendment which particularly looked at the cost of primary care for children and health and social care, but obviously I am disappointed that we have not got proposals yet. I still think as a community that people having to pay out £52 to see the doctor for a child is not acceptable, and as a relatively wealthy community it is not where we should be and we have to tackle that problem.

2110 I do accept with the changes to the benefit system that by bringing in the people who are living in social housing, effectively we have increased the number of people who can get free medical care, which is good but I still think there is a considerable group of people who cannot afford to get primary care and that is just not acceptable in a community of our wealth and we should be tackling that problem. I was just disappointed that the medical benefit has stayed at £12; I think it should have increased. They have increased prescription rates and I see that they have almost said that they have done that because of, in paragraph 6.3 on page 15, the outcome of the review of tax and benefits which was to note, and I think the key words on that were:

2115

To note that in the opinion of the Treasury & Resources Department and the Social Security Department, the Health Benefit grant for primary care appointments should be phased out by 2025.

2120 I think that was the original proposal and then it was changed to 'to note'. To note does not mean we have to follow it, it does not mean the States support it or are against it, so I think we should have just ignored it because that is effectively what 'to note' does and I am disappointed that they have almost justified not increasing it by going back to that Resolution of the States.

I know I was on my own in being against the change in the Health Service Fund but I cannot not mention paragraph 6.8 where it says:

The Committee notes the proposal to allow all NICE approved drugs to be prescribed in Guernsey, and the significant additional estimated costs that would be incurred, should it be approved.

2125 I think we have made a big mistake because I think the whole principle that medical care, the
cost of it is shared between the employer and the employee was one of the foundations of the
Social Security scheme because both employer and employees pay also non-employed and self-
employed into that Fund. Now we are going to lose that contribution and I think we are going
back to Zero-10. One of the key things was that employers making contributions and we were
going to lose that option and I think it was the best system that we had and if we did approve,
when it comes back to the States, all the NICE approved drugs it will simply perhaps be funded by
2130 an increase in contributions. So people will be able to make a decision knowing, 'Yes, we are
going to approve those NICE approved drugs,' and there is a hypothecated source of funding for
that which was the contribution rates and they would have to increase so if people want these
additional drugs they are going to have to pay for them and this is the hypothecated way of
financing it. I think that was an excellent system and I am really disappointed that we have lost it,
2135 but I accept I was in a minority of one.

So I will end my contributions to the debate here.

Thank you.

The Deputy Bailiff: Deputy Ferbrache.

2140 **Deputy Ferbrache:** Sir, I commend the Committee for the work they have done in difficult
times and I am going to vote for all the Propositions, (**A Member:** Hear, hear.) but that is probably
the high spot of what I am going to say.

2145 But in relation to the debate generally it has been depressing except for the excellent speech
by Deputy St Pier who has brought a touch of realism to it.

When I hear Deputy Fallaize effectively say, not in those words but that was essence, 'Soak the
rich, anybody that is doing well, take more from them,' because that is in essence what he was
saying. But I will come back to that point. He is shaking his head; he should be shaking it
affirmatively and not negatively but anyway. (*Laughter*)

2150 If we look at page 11 there are lots of single pensioners and we are saying that we expect
them to live – and the only income that quite a lot of them have is their old age pension – to live
on £222.58 a week next year. Now that is a much better pension than certain other jurisdictions
but it is not a lot to live on when you have got to pay all the bills that you have got to pay and
there are, okay if there are two of you it is more than that because there is a husband and wife or
2155 partners or whatever it may be, but there is a significant number of people.

Now I do not know it is a bit like when we ... we had a statute not that long ago where
magistrates and assistant magistrates in Guernsey did not like being called magistrates and
assistant magistrates so we passed a piece of judicial legislation which was nonsense; now they
are called Judges of the Magistrates Court. That was as pointless a piece of legislation as you will
2160 ever see. So this thing about calling the old age pension now the States' pension, I do not give a
jot one way or another. Deputy Tindall says that is what it is called in England, well we are not in
England, we are in Guernsey; and I am old, I am over 65, Deputy Graham is old, he is over 65; we
both admit we are old – he is not ancient, I may be! There is no disgrace in being old and the
pension is to provide for old people. Now I am not going to vote against that because it is
2165 another piece of nonsense and I will put my hand up because it is not the worse piece of
nonsense I have seen.

But what we are saying generally in relation to the way that we are going to encourage, that
we are going to bring more money into this community is not to be seen as a mini 'Corbynesque'
society but to be seen as an expansionist, open capitalist society that encourages enterprise.
2170 (**A Member:** Hear, hear.)

Now we look at page 10, which was a page that Deputy Fallaize referred to and he said the
total number of people paying maximum contribution is 1,200, which of course is right when you
add those three columns up. So of a working population of 32,000-33,000, 1,200 people are

2175 paying the maximum contributions. In fact the figures are even more than that because, of that
1,200 there is actually only 891 who are working, the other 332 are non-employed. So you have
got less than 3% of the working population are reaching that zenith. It is really an income tax, that
is what it is, and it would be nice to know what the comparative rates are in Jersey and in England
and I believe they are probably lower than this, but we are saying, 'No, Deputy Fallaize,' and he is
not the only one, there will be other people in here who will vote for it, saying let's put those rates
up.

2180 Now also when you look at another column and it is alright saying –

Deputy Fallaize: Point of correction.

2185 **Deputy Ferbrache:** I am not going to give way to Deputy Fallaize. If it is a point of correction I
will sit down.

The Deputy Bailiff: Point of correction, Deputy Fallaize.

2190 **Deputy Fallaize:** I did not say or advocate or imply that the social insurance rate should be
increased for anybody. The only Member of the present States who has proposed soaking the
rich, as Deputy Ferbrache has put it, is him, because he proposed an amendment to take millions
and millions of pounds away from, was it, advocates or accountants or somebody, I cannot
remember who it was. He is the only Member of the States who wants to soak the rich! (*Laughter*)

2195 **The Deputy Bailiff:** Deputy Ferbrache to continue.

Deputy Ferbrache: What I actually did was try and adjust a contribution which is fair because I
believe in a fair and inclusive society and advocates and accountants in Guernsey earn more than
they would earn elsewhere in relation to their comparative abilities. That is all I was saying.

2200 What I am doing here, this 891 people or 1,200 people if you add the non-employed people
are people who ... well at least only some of them run their own businesses. What is also a little
iniquitous and I know the employers make a contribution, when you look at page 8 the maximum
contribution – it is just under £150,000 we are talking about – the maximum contribution weekly
rate going forward for 2020 if you are an employee is £190.08 a week which is £9,884.16 per
annum. If you are a non-employed person the weekly full rate is £282.60 which is £14,695.20. If
2205 you are self-employed, if you put your house at risk, if you go to the bank and borrow money, if
you take a risk with your life, you have got to pay £16,473.60. That is an extra 10%-11% tax
effectively on your first £150,000 of earnings; you are paying 31% of your income in taxes. Fine,
2210 we have got to do that because we need the money. If we are going to pay the pensions, if we are
going to give the people these benefits that is what we have got to do, but there has got to be a
limit.

Deputy Fallaize's point – he can correct me if he thinks I am wrong again, I do not really mind,
his point – was well of course you are paying in reality over a certain figure a lower percentage.
2215 Well of course that is true but you are still actually paying more money. If you go to a shop and
there is an item there for £5 and you say, 'Yes, I am going to pay £5,' the man standing by the side
of you says, 'I only earn half as much as him so I should only pay £2.50.' The shopkeeper is going
to say, 'Well I will take the £5 from Ferbrache rather than Fallaize' – well it is probably the other
way round, but I do not think that is relevant for the point I am particularly making. So it is still
2220 money, money they are paying over £16,000-odd a year or £10,000 a year or whatever the figures
may be.

Now when we actually look at – because of the way it has been well managed, when we look at
– the Fund in relation to how much money there is it shows that, if I remember this correctly, the
Fund is actually due to increase by or has increased by about £4.5 million over the year. Yes, what

2225 it showed, if you look at table 13 on page 21, income £132.5 million, expenditure £159 million but then there is investment returns of £31 million. So it is anticipated that as at 31st December the amount in the fund will go up from £721.5 million to £726 million. I know there are other funds, I am just talking about that particular Fund.

2230 So there is not much skin in the game left. There is not much; £4.5 million out of £700 million is not a lot percentage wise. But it is all the time looking at those that are successful and taking it away from them, encouraging mediocrity, encouraging people who want to do something on their own, who want to take a risk because it is very easy to be – it is not easy to be a civil servant and earn £150,000 a year, very few of them do that, but if you are out there taking a risk running your own business and you are making a good return, you are already making a significant contribution to this society. (**A Member:** Hear, hear.)

2235 Because when you look the statistics, whether you look at the 2019 booklet or the 2016 booklet, most self-employed businesses in Guernsey employ 10-20 people; they are small businesses, there are not the monoliths, they are not employing 200-300 people. There are some of those but there are not that many. Very small for our community. So you have got the small entrepreneur who is to be bashed. You have got the pensioner – I like the phrase, if I can remember it correctly, that Deputy Fallaize used, I may use it again and pretend it is mine going forward, when people are tapping the radiator, because the man and woman of 70-75 the old age pensioner who is thinking about is he going to be able to afford his electricity bill, or his gas bill, or his oil bill, for this coming year and we are talking about the rights of prisoners.

2240 If you go to prison you go through a judicial process, the last thing any court wants to do is to send you to jail but on occasions it has to do that because that is for the benefit of society. If you lose your benefits for two months or two years or three years as far as I am concerned so be it, it is part of your punishment process.

2245 I know what Deputy Tindall says about Garnishee Orders; we do not exactly have the same thing but we could do it, it does not take a lot of imagination to do it and arrest that money. That would be for a small percentage because they would be able to say, 'Well, I am getting £150 a week pension, I have got to provide this, I have got to provide that, it goes to court and they arrest £2 a week.' So it is just a nonsense to suggest that that is a radical position.

2250 I know at paragraph 5.9 of the policy the Committee say, well they refer to the Irish thing and say, 'Well, we are looking at it'. They have got so many other important things to look at that I hope they look at it in the year 2046 unless they are forced to by some ... Oh we will not have the European Court soon, will we, well that is good, but of course we can have decisions made by our court and our Court of Appeal which have to have regard to the human rights legislation which may say that it is relevant.

2255 I would just say, as somebody who has defended hundreds and hundreds of people over the years, that it is your human right to behave yourself, it is your human obligation to behave yourself and do not get yourself sent to jail, then you will not have to bother about whether you lose your pension or not.

2260 **Deputy Fallaize:** Sir, point of correction. May I make a point of correction?

The Deputy Bailiff: Point of correction, Deputy Fallaize.

2265 **Deputy Fallaize:** I hate doing this when it is Deputy Ferbrache speaking, but he just said we will not have the European Court, but we will because the European Court of Human Rights is nothing to do with the European Union, is it? The Court of Justice, the legal arrangements around the European Union, may not pertain to us but they are not the European Court of Human Rights, are they? I mean Deputy Ferbrache will correct me if I am wrong, but I think on this particular legal point he is wrong.

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The Deputy Bailiff: Deputy Ferbrache to continue.

2280 **Deputy Ferbrache:** He is actually strictly right, but it is – *[Inaudible]*
(**Two Members:** Microphone!) Sorry, I thought I had switched it on – because what I went on to say was in any event our courts have to apply our own human rights legislation because that has been part of our statutory ... The statute was passed in 2000 and came into force in 2009 so we have to apply that anyway.

2285 Sir, I am very grateful for Deputy Fallaize standing and making the point, I am sure it has added to the knowledge of the people of the Bailiwick greatly.

A Member: Hear, hear.

The Deputy Bailiff: Deputy de Sausmarez.

2290 **Deputy de Sausmarez:** Thank you, sir.

2295 I just have one very small question and funnily enough it is probably directed more to Deputy Lowe or any other Member of the Committee for Home Affairs than it is to Deputy Le Clerc. In paragraph 5.8 – it is really out of curiosity I ask because I will be supporting Proposition 8 – but in paragraph 5. 8 it says it is talking about prisoners and being able to receive their pension and it says if:

... they are over pension age, they do not have a work requirement while in prison, and therefore cannot earn a small wage from participation in the Release on Temporary Licence ... scheme, which for prisoners under pension age ...

And it goes on, I just wondered whether the word 'cannot' was accurate, whether people are actually precluded from working if they are of pension age or whether that is an option that is actually available to them. So if anyone is able to answer that question I would be grateful.

Thank you.

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The Bailiff: Deputy de Lisle.

Deputy de Lisle: Thank you, sir.

2305 I am quite troubled with all this because when I look at pensions and those on fixed incomes, I just feel that they are being left behind.

2310 I know I am actually supporting Deputies Ferbrache, Queripel and Dorey with respect to my comments today, but pensioners are being left well behind and they are being squeezed, squeezed into poverty, sir, from what I see here, because pensions are to rise by 2.4% RPI while TRP on residences is going up 10.2%. Is that fair, sir? Has Deputy St Pier actually spoken to Deputy St Clerc? (*Laughter and interjections*) Do you two, you know ... I mean (*Laughter*) it just seems to me (*Interjection*) one is increasing 10.2% and the other is only giving 2.4%. It does not add up to me. (**A Member:** Hear, hear.)

2315 But not only that, those pensioners in the last Budget which was passed have to find a 60% surcharge for those large houses of 50 units and up, which is having an effect this year and many are in property inherited, it is not necessarily earned by them, it is inherited but they are still cash poor.

2320 The rising cost of TRP tariffs and the differential between the very low pension and the increases comparatively in TRP and many other utility rates that are going up, electricity and so on, way above the rising cost of inflation ... So I think we are putting pensioners in a very difficult position. (**A Member:** Hear, hear.)

Now, sir, many will be concerned also of the TRP suggested surcharge for all those properties over 200 units coming up in this Budget if this is voted this particular time. (*Interjection*) Because

that will apply to 30%, we are told 30%, of the population and that will of course encumber many additional pensioners.

2325 I want also to make the point, sir, that when we look at these figures of £222 for 2020 and £334 for the family total a very small number of pensioners – a very small proportion actually – get those numbers. In fact it is a complaint from door to door when one is running elections from all those pensioners that are saying, 'I am only getting £80,' 'I am only getting £60 a week,' 'I am not getting the full pension by any means.' I think you will find only about 17%-20% – and I will
2330 ask Deputy Le Clerc what is it, is it 17%, is it 27%, is the actual percentage that get the full pension? It is very few, it is a very small percentage. So do not be taken in by these big numbers here if you think they are big, because most people do not get it.

2335 Sir, I want to make another point with regard to medical benefits and the grants there and so on. Pensioners should not lose, and feel that they are going to lose, their health benefit grant and the exemption from prescription charges, nor be forced to sell their homes to pay for long-term care and a lot of people are concerned about those issues, a lot of people, and when I read this and I go to, where is it, 6.2 to 6.4 what do I read, I read that the Department is very interested in noting that particular finding, they say:

To note that in the opinion of the Treasury & Resources ...

That department again:

... and the Social Security Department, the Health Benefit grant for primary care appointments should be phased out by 2025.

2340 Deputy Gollop, did you vote for that? (**Deputy Gollop:** Yes, I did.) Well there you are. That is a real concern. It is a worry to OAPs – States' pensioners, I am sorry – and I just wondered, given the 2.6% drop in the cost of medical benefit grants, whether that in fact could not have been perhaps steered into the prescription charge and given everybody a bit of a holiday with that continual build-up of the cost of prescriptions.

2345 But the medical benefit rate should have been raised along with other benefits. Why not? Because so many people, I see them ill in the street and I say, 'You have got to go and see a doctor,' and they turn round to me, 'I cannot afford it, it is £50-£60 when I go in there.' Many cannot afford to see a doctor, and I am afraid that this will only get worse as we go forward because every year through to 2025 we are going to see that 10.2% of TRP coming in and that is
2350 going to destroy pensioners, they are going to become more and more and more squeezed over the next few years. Now we in here can do something about that and it is about time we are pro-active and make changes to ensure that our pensioners are well looked after, sir.

The Deputy Bailiff: Deputy Merrett.

2355 **Deputy Merrett:** Thank you, sir.

I will be quite brief and I am looking forward to when Deputy Le Clerc sums up because I am struggling a bit with Proposition 8. I had an email correspondence with Deputy Le Clerc which I did really appreciate and I will refer very briefly, sir, to Deputy Lester Queripel's speech when he
2360 talked about other benefits and allowances, and if you are paying rent etc. but if one is paying a mortgage, for example, when I am incarcerated – hopefully I never am – but if I am ever incarcerated at Her Majesty's pleasure then I do not expect my mortgage company to say, 'That is okay. Deputy Merrett, do not pay your mortgage for a couple of months because clearly you cannot earn a salary to pay it, so that is fine. We will put that on hold.'

2365 So whereas I obviously have concern for people coming out of prison and not having a lump sum to re-establish themselves in our community, whether they are old age pensioners or whether they are of working age, clearly – well in my opinion – if you have been detained by Her

Majesty's pleasure, especially in a small community, even finding another position where you are able to earn money can often be a problem in the first place.

2370 So I do not want to stray into the Review of Justice policy paper which is coming forward because obviously short-term prison sentences have such an effect on members of our community, but my concern, sir, is that if we agree today to Proposition 8 we are giving one section of our community of the prison population this up to potentially over £3,000 but somebody else coming out – and I know, I did not rise after Deputy de Sausmarez, sir, because 2375 she did ask the question that I was also going to ask but it says in here under 5.11 as referred to that if I am of working age I:

... can earn a small wage while participating in the ROTL scheme ...

And I cannot even understand what that abbreviation is, but it is right on remand to go out to work basically, in broad terms. So can I earn the equivalent of that if I was on old age pension in that period of time? I want us to be fair and equitable, I really do, sir, but at the same time I am 2380 struggling with the concept of you have lost your right to liberty which is horrific anyway and then when you come out some members of our community who will be released will have this but other members of our community that were incarcerated will not have potentially that; that to me I am just struggling with the concept. So I will listen very carefully when the President sums up to try and get some reassurances on my concerns which I do not believe I have articulated very well 2385 but I do know that Deputy Le Clerc knows of my concerns regarding this from previous correspondence –

Oh, I will give way to Deputy Leadbeater.

Deputy Leadbeater: Sir, I thank Deputy Merrett for giving way.

2390 I just want to put a bit of clarity on prisoners of pensionable age and the requirement for work in prison. There is no requirement for them to take part in work in prison but they are able to if they so wish and the majority of prisoners do so take part in work activities to keep them fit.

Deputy Merrett: So when Deputy Le Clerc sums up if I could just ... I obviously know Deputy 2395 Le Clerc has been asked this question by other Members so I will look forward to hearing the responses.

I also on this occasion would like a recorded vote on Proposition 8.

Thank you, sir.

2400 **The Deputy Bailiff:** Deputy Gollop.

Deputy Gollop: Well as Deputy Roffey kind of introduced me earlier, I have been a bit of a maverick or a rogue Member to Deputy Le Clerc and the Committee now and then, although I have sat on it and its predecessor now for seven and a half years and I kind of accept a lot of it 2405 and possibly would do some things differently with a clean sheet of paper.

I have got a lot of sympathy and time actually for the general direction of Deputy Dorey as outlined in his speech when in a way we had a more perfectly pure social insurance model. I mean for lots of reasons not just for Zero-10 but for the fiscal straightjackets and perhaps the need to rationalise staff, we have moved away a lot from that model and to a certain extent we are on a 2410 journey to a destination we do not quite know in terms of funding the health and social care.

But just to pick up some of the points that have been covered so far, I am aware I think of some of the ... I am certainly no expert on investments or high finance and I do not sit on the investment sub-committee but occasionally I voted with the board on the broader investment issues. I know at ESS we changed our investment advisors a few years ago for the best of reasons 2415 at the time and Policy & Resources and their predecessors have a different investment strategy and have been extremely lucky, doubtless well advised, but I think historically whilst we had the

model of a separate, stand-alone insurance system from both general revenue and the Civil Service pensions, it made sense for perhaps ESS to have a rather more cautious line in terms of sacrificing short term gains for long-term security.

2420 Now I accept that if you take Deputy St Pier's perspective and maybe it is time to look at the assets in a broader way, and liabilities, because he is probably right but in reality if Social Security ran out of money the States as a whole would feel obliged to pay the pensions from a different pot, perish the thought.

2425 I actually think if Deputy Roffey is right that we have got five or six years' worth we are doing quite well because when I started on the Committee it was only, I think, four years and we have the two year measure in the ground.

2430 Of course the prisoners idea has come up a lot and we have heard some pretty strong feelings from various directions on that side of it. To lighten the tone a little bit, as a boy I used to like playing Monopoly, the game that Waddington's or Parker Brothers in America developed. I am sure Deputy Trott and Members of the Policy & Resources are particularly good at that game, but you had all the games, a little iron and a little dog and all those little creatures that went round, but there is of course a flaw in the game, and apart from its extraordinary length, one of the flaws in the game is that if you land on somebody else's property, or railway station, or utility you have to pay rent, a very high rent if it has been enriched in some way with hotels, but there is one sure way you can win the game, go to jail all the time, because you can go to jail and collect rents on your own properties and not land on somebody else's.

2435 Now on a more serious level –

2440 **Deputy McSwiggan:** Point of correction, sir.

The Deputy Bailiff: Point of correction, Deputy McSwiggan.

Deputy McSwiggan: You are not allowed to collect rent while you are in jail.

2445 **Deputy Gollop:** Well it is. *(Interjections and laughter)* I know you could get out with a parking permit or something but there were lots of ... but I suppose on a serious level Deputy Leadbeater put across vividly the case of an unsympathetic offender perhaps who would find themselves in the situation after a five year jail term, maybe a pot of £50,000 that they would have because of course they would not have to look after themselves with conventional rent or food or whatever whilst they are incarcerated.

2450 You had different perspectives from Deputy Lester Queripel and Deputy Merrett. I would probably lean towards going a bit more toward the rehabilitation model rather than the punitive model, but I think Deputy Roffey is probably right in taking the most appropriate point given advice that we had from knowledgeable people at the moment.

2455 I think Deputy Tindall made an excellent suggestion and point of law that needs to be looked into whether people who are incarcerated for any offence, especially more serious offences, who happen to be the recipients of States' benefits should not have those benefits largely taken away but not disappear into the system but be transferred into a fund or to support victims or maybe to support Law Enforcement and the cost of the Prison, but that is another consideration that that might be an income stream for the Prison and Law Enforcement.

2460 I think we do need to bear in mind that prisoners will probably be rehabilitated. I am a strong supporter of the efforts made by local groups on rehabilitation of ex-offenders and I think sometimes the generally excellent care they get in prison is lost on release when they find themselves in a situation where money, accommodation and community is hard to come by.
2465 **(A Member:** Hear, hear.) Therefore I would suggest that a larger rather than a smaller sum is needed and I know perhaps Deputy Ferbrache would say they deserve their penalty, but of course the judges of the day do not fine them their pensions they fine them according to the tariff that is

appropriate for that particular offence as laid down in legislation, and of course there can be situations whereby poor release then leads on to a revolving door back into prison so you end up possibly with a greater social cost.

2470

As regards the more broader points that Deputy Roffey and others have raised, I think we should have raised the rights really across the board and not just on the mainline pension but for long-term care and health insurance. I think that we have perhaps been afraid of a difficult debate in this term along those lines.

2475

I must admit I voted against raising the rates in 2009 when Deputy Dorey had the short end of the stick, but of course that was an era where we had just introduced Zero-10 when he had the global meltdown of the credit crunch and there was a real risk of jobs going in Guernsey. Due perhaps to the wisdom of Deputy Trott's policies, or the strength of the local finance sector, we did not see significant unemployment or retrenchment here, but that was a risk at the time so a raising of the rates in that micro era was not that advisable. But I think if we follow a gradualist philosophy of gradually raising the rate more or less across the board, not certainly targeted at the richer members of society because I have got a lot of sympathy with what Deputy Ferbrache says, that if we are using social insurance as a kind of secondary income tax that is a very poor tax philosophy to have.

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So we do need a conversation about raising the rates and making other adjustments, but we as a Committee are constantly working on that.

I perhaps unfortunately interrupted what Deputy de Lisle was saying because I was of course on the Personal Tax and Benefits Review of the last term and I did not agree with everything we collectively came to but I also felt that if you are on a group and you have had input and you have been listened to you have to go along with the package, generally speaking.

2490

So I did support maybe eliminating the medical grant and I would still justify that today, although I agree with Deputy Fallaize that we need a new model, Deputy Soulsby, on looking at the medical grant because actually let's say we made a decision today to raise the medical grant from £12 to £20, which is probably more or less what it should be in real terms, where would that money come from? It would come straight from the people who are paying contributions to balance the books; we would have to raise contributions.

2495

The other problem of course is just raising the rates does not resolve the basic problem of how far do you balance universality with targeting. How far are you blunderbussing your resources or focussing them on those with greater need? I think most significantly the cost of going to the doctor in Jersey is about £50 and in Guernsey is about £50. In reality it is £62 but you do not notice it is £62 because £12 is being paid for by your friendly States.

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If you have as a subsidy, whether it be for buses or for aeroplanes or for doctors, it becomes hidden in the cost and the real market value of it is lost, and I would have argued that if we had taken the risk and raised medical rates dramatically there would have been consumer resistance, there would have been a need for medical practices to maybe sharpen their cost base, a little base and we might have seen competition in the market that was promised by the Co-op Group and did not happen. I know that is a side issue because we are getting into perhaps SLAWS and things like that.

2505

But I do support the package.

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The only shock for me each year is that although I think we have had a useful debate on various strands today, we seem reluctant to actually look at the quantum of figures that we are paying to support our loved ones in retirement homes and nursing care, and residential care, and respite care, because those figures are significant, they are being looked at by the Committee but they certainly require consideration.

2515

Personally I probably would not have changed the phrase from old age pension to pension; that is words and I think some of us on the Committee, whilst we are changing language would vote to get rid of 'elderly mentally infirm' which is still in the language. But I think we know what

we mean and I am just disappointed maybe that Deputy McSwiggan and Deputy Le Clerc perhaps might not be in the next Chamber to continue more work on these lines.

2520 I support all of the recommendations.

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Thank you, sir.

2525 I would have been very happy to have gone after Deputy Hansmann Rouxel because what I am going to say will not be to everyone's liking but I shall say it none the less.

It costs £46,000 a year to keep a prisoner in our Prison and for those who wonder where the expense goes well, they have got a telephone in their cells, and Sky TV, and three square meals with choices each day. Being in prison is a comfortable existence.

2530 Now contrast that to the pensioner that Deputy de Lisle was referring to, who may not even be on a full pension but even if they are on a full pension struggles by throughout the year and at the end of it has nothing to show for it, nothing to show for it, in fact may even have crept into debt, who knows, I hope not but it is possible. Then there is the chap up the road who is in prison for whatever reason but for committing a crime against society that the courts considered a custodial sentence was appropriate for and he leaves, he comes out 365 days later and receives a dollop of cash.

So you have got one person, one pensioner who has not committed any crimes, law abiding remains a respected member of the community who might have gone backwards and yet there is another pensioner who gets a leg up as a consequence of a crime they have committed.

2540 Why not take the lump sum and use it to compensate for some of the costs that the taxpayer has had in funding the £46,000, the nearly £1,000 a week that it costs to incarcerate that person, that would be far more equitable, far more fair?

So just a thought and no doubt that will stimulate some additional debate from those who have yet to speak.

2545 **The Deputy Bailiff:** Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, sir.

2550 Deputy Trott is wrong in that I do not think he will stimulate any more debate. It is what it is and the compromise that the Committee has come to I think is where it is, I think Deputy Fallaize was right in putting it that way. But I do not want to speak about that, I just felt that Deputy Trott was trying to provoke a debate which is not going to happen. (*Interjection*) Maybe not this time round.

2555 I just wanted to pick up on what has been a lot of debate around 2.4, which is talking about not raising contributions this time round and clarify that Deputy Dorey's point about the basis of the pension should be – our starting point should be – what it costs somebody to live and keep out of relative poverty and not based on how much we can afford to jig the system in order to pay that person and whether it is sustainable.

2560 If we start with the point of how do we keep people comfortable and out of poverty in their old age, yes, it is based on contributions and some people do not get the full pension because of their contributions, but if that basic amount is based on keeping them out of relative poverty because if we are basing it on how much we can jig the system and not raise contributions or not do this then we are effectively putting people into poverty and that costs us more in other ways.

2565 So the cost is there no matter what we do; it costs people to live and if people end up in poverty where they are not able to sustain themselves there are all sorts of other costs that we as the States and/or the taxpayers will pick up.

So it has to start with what is a decent amount to keep people out and then we work back and all of those other things that will take place in the review and looking at that in the whole must be looked at, but not just in financial terms.

2570 I think as part of that review we need to start to understand our model of government is based largely on how small we can keep the States and how we can pass certain parts of our responsibility to the third sector.

The third sector relies on volunteers, volunteers that work for free but their contributions, that value of a volunteer there is no way of quantifying that value and as a result we do not capture that value within our system but we rely on this intangible volunteer contribution to make our whole Government work and our whole system work.

2575 Now as part of that review I would hope that we do start to broaden and start to look at creative ways of how we can value those contributions, like social credits, and as we decouple ourselves from GDP growth and move towards more sustainable models of growth we should be looking at capturing the value of non-monetary contributions through schemes like social credits. When I say social credits I do not mean the Chinese system of social credits which is quite scary, I mean some of the schemes that have been piloted in various areas. It is not a brand new way of thinking but we do not need to capture those non-financial, non-monetary contributions.

2585 The other point I want to make is around ... it always bugs me when we get this policy letter and has for the years that I have been a Deputy which feels a lot longer than it is. But the contribution of the self-employed and the 11% that they have to pay, and I think there is value in looking again at what strategy around entrepreneurs and again the value that they bring that is not necessarily just based on money, and if we are decoupling the direct relationship between just what you contribute but in monetary terms to the system and you start to look at all those extra benefits that an entrepreneurial society has, and if that is something that Economic Development is trying to push then it would make sense as part of a broader package looking at how to or what the effects of having the 11% contribution when you are starting up a business and whether that does put people off.

2590 Again it is not something that we are unique in looking at, so there are lots of different jurisdictions not dissimilar to our own who have looked at this and there are papers. One that I found quite recently was Entrepreneurship and Social Security, looking exactly at that relationship between entrepreneurship and their conclusion, or part of their conclusion, was that seemingly identical pension provisions may have a quite different effect depending on whether they apply to entrepreneurs or to workers, and entrepreneurs and workers should be treated differently in Social Security schemes. No general rule that entrepreneurs need insurance for old age income is less or more urgently than workers can be established but splitting age related Social Security contributions between workers and entrepreneurs is not welfare mutual.

2600 So in essence it is a piece of work I think we need to do along with all of the other bits and pieces that we need to look at with the contributions. But a cohesive strategy that if we are going to be encouraging entrepreneurship, which is clearly where people want to go, then we need to start looking at what barriers there are and how those affect the decisions that people make especially in the start-up phase, because obviously once you get to a certain point as an entrepreneur you might be employing more people, yes it is a small business, and those people would otherwise not be contributing and as an employer at that point you might be an entrepreneur who pays 11% for yourself but you are also paying the 6% contribution – I think it is a 6% contribution – as the employer then of these new contributors to the system. So looking at that in the whole is part of what we should be doing and I hope to hear from Economic Development that that is something that they might consider pursuing with Employment & Social Security as part of the review of how contributions are monitored.

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The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Thank you, sir.

2620 I have just got two questions and one of them is on table 4, page 8, with the self-employed people. I do not understand why the self-employed have a voluntary overseas aid contribution that does not appear to be anywhere with the just in Class 1, it is only in Class 2. If that could just be explained to me that would be much appreciated.

2625 My final thing is – it was just more of a sort of statement question – that regarding the prisons, why didn't ESS come to Home Affairs to actually discuss it with us because there are quite a few things that are inaccurate on it?

The Deputy Bailiff: Well nobody else wishes to speak in the debate and therefore I invite the President of the Committee, Deputy Le Clerc, to respond to the debate.

2630 **Deputy Le Clerc:** Thank you, sir.

There is quite a lot for me to actually go through so I will have to refer back to various pieces of paper that I have got here but I will make a start.

2635 Deputy Graham queried the reason to change the old age pension. It is something that we have been approached by more than one person on and we just felt it was the right time to change.

2640 Deputy Lester Queripel, there was a whole host of questions and he did actually send us some of these questions in advance but I received them at nine o'clock on Sunday evening and I did go back to him and say that actually that was really insufficient time for us to come back with comprehensive answers and I did ask that perhaps he spoke to the Assistant Prison Governor who might be able to help him with some of the answers.

2645 But I will endeavour to answer some of the questions that he has asked, if I can find my paper. So I will go through, at the moment – and I think some of the debate has got mixed up between prisoners' pensions and ordinary benefits – so we are talking about the prisoner receiving a sum of money out of the General Insurance Fund. If there are any other benefits paid that would be paid out of general revenue and that would be on a non-contributory report. I will touch on both but the area strayed into that level of debate.

So we do not continue paying any prisoner benefits, so for example if they were receiving Income Support before they went into prison they would not receive that Income Support.

2650 I think Deputy Trott has pointed out and actually it is mentioned in the Budget debate in one of the Appendices. I thought it was £45,000 but it may be £46,000 – it costs £46,000 or £45,000 a year to keep a prisoner in the Prison and on top of that they also receive all their medical benefits as well, so all their doctors' appointments would be paid for, dentists are paid for and any prescription drugs would also be paid for out of that.

2655 But if a person going into prison, and whether that be a person over 65 or under 65, if their family is in need of support and there are no other means to keep that family, that family would apply for Income Support and actually we do have prisoners' families on Income Support and we do help them.

2660 I think it is important to remember, as several Deputies have commented, that these people have committed a crime, have been found guilty of that crime, and have been put as a custodial sentence, and we must not forget that (**Several Members:** Hear, hear.) and some of these crimes and particularly with the age group that we are talking about, those people over 65, are very serious offences and there are victims of those crimes that have been victims for many years, have not received any compensation for those crimes, and in addition if they are on Income Support or on very low income they would also have received legal aid to defend them through our court system. So I think it is just worth reminding ourselves of some of those facts.

2665 Right number two was the small wage. Now I have got a slight difference of opinion on whether prisoners over the age of 65 do have to work or not work, and I think we will come back to you, Deputy Queripel, on that one, sir. But I have got here in a paper that we received at our

2670 Committee to say that a prisoner who does not have a work requirement receives an allowance of £14.60 a week paid by the Prison to afford items from the – there is a tuck shop and if they require, I expect, toiletries and things like that. So these people do receive an allowance and some financial support.

2675 With regard to help if they are only in for a short sentence, I think that is really important that that is looked at under the Justice Review because I do think that some of the 12-week sentences can be very harsh. What we do at Social Security if people are in social housing and it was a very short sentence I think we would look at each case on its merits because it would be very harsh to ask that person to leave the property for them to come out a few weeks later and then have to find additional property. So I think although we do not help out with any Income Support payments while they are in prison I think we do try and assist where we can as much as we can.

2680 I am all over the shop on this one, sir, sorry about that. Again I think it has been mentioned about prisoners facing financial hardship when they come out of prison, but actually they must be aware when they committed that crime that ultimately that could be the penalty that they face.

2685 Again we do everything that we can at Social Security to help people, and that is why this is really important, because this will enable those prisoners that are coming out to have a small sum of money not equal but approximately the same as what those prisoners who are out on Release on Temporary Licence are able to earn. I cannot give an amount –

I will give way to Deputy Leadbeater.

Deputy Leadbeater: Sir, I thank Deputy Le Clerc for giving way.

2690 Contrary to 5.8, prisoners over 65 can access the ROTL scheme, they can. They do not have to work, there is no imperative for them to work while they are in prison but they can access this scheme, so they could build up the same amount of money during that period of time as those prisoners under 65.

2695 **Deputy Le Clerc:** Sir, I am unable to give any idea of how much would be saved because as I have said I think it has been conflated between what is general revenue expenditure and what would be old age pension expenditure. So I do not think we have those figures.

2700 I think it is just worth reminding ourselves and this is in the public domain, Deputy Lowe has talked about this in the past, actually the Prison population breakdown 11th October and we are talking six people that are aged over 65. I have got no breakdown of the offences, so actually the cost of officer time to establish how much would be saved would be considerable for this.

2705 I think the Supreme Court outcome in Ireland, well, what we have done today is actually we have done that review, so to answer Deputy Queripel's question whether we will be doing a further review. No, we have no intention of doing a further review because this is the review that we have undertaken and this is what we think is the most fair and appropriate in enabling people to come out of prison and have a start when they come out and they work with the caring for ex-offenders at the same time.

2710 I think I will move on now to Deputy Fallaize, the Newborn Care Allowance. I cannot promise that this work will be done in this term because we are under incredible pressure and we have got key staff working on priority areas agreed by this States in the Policy & Resource Plan; we are working in partnership with Agilisys on the future digital services, and actually that is great but it is actually taking away key staff working with Agilisys on the future digital services, so again they are having to do their day job as well as doing this extra.

2715 We also have got, and Deputy Fallaize is aware of this, I know he wants us to look as the reciprocal health insurance scheme that we have got outstanding, and he has talked about the asbestos scheme, and again we know that is work that we have got to do. So we have got a lot of work and I am just not sure we have got the resources, and I cannot say which out of those three, because I know that they are all really important to him, will actually receive the resources that

2720 they need. We will do everything we can, but I think it is fair to say I am pushing officers as much as I can but there is no other policy resource available.

On the review of the pension uprating, and I know several Members have talked about this, a 0.5% increase would bring in about £7 million. So actually I think it is not just looking at the 0.5% increase, we would need to be looking at substantially more than the 0.5% increase. I think it is probably, if I just jump to Deputy Sarah Hansmann Rouxel's comments about raising contribution rates, I think what is really important and I really appreciate what she said, I think we have to look from the bottom up and the review of the basket of goods that we want to do for our Income Support rates I think is really key. I am hoping that we will get the resource in the Budget to pay for that, because I think it really will give us an idea of what we actually feel is the right amount for a pensioner to live on, and then the decision as to how that is funded will have to come after that. So I think that was a really worthwhile comment that she made.

2735 Back to Deputy Fallaize. He was aware because he was on Employment & Social Security that there are lots of papers, policy papers that will be coming, secondary pensions, SLAWS etc. and what we were concerned about if we brought in a Proposition for a 0.5% increase today, it would be whatever comes first across the line, second across the line would get through and that is not necessarily the order and priority that the Island needs.

2740 With regard to the uprating report for next year I have already spoken to officers and I think there is a lot of work that will need to be done by this Committee, and I think it is not just this Committee but it will be every committee because bearing in mind it will be the same for the Budget that needs to come to this Assembly in 2021 that all committees are going to have to put in a lot of work over those next few months of the new year preparing from policy papers and some reports so that when the new committees are elected they can hit the ground running and then if they want to slightly amend the report, but the bulk of the work will need to be done by this Assembly ready for those 2021 uprating reports and 2021 Budget.

2745 So that is where I will be and that is what I have already said to our officers that we will need to be doing, we will need to be preparing that report and therefore it will be this ESS Committee that will be looking at what is required on uprating and sustainability of the funds.

2750 With regard to the mesothelioma – sorry I cannot pronounce that very well – scheme, the Committee has met – well I have met with Deputy Fallaize and, as I said, we cannot be certain of when we will be bringing that policy paper but it is on our priority list. We have looked at the Jersey scheme, we have been advised that coming through the Insurance Funds is not the right route to go so we will have to go through general revenue. We have put an amount in our budget for next year that has not been successful but we will try and bring back an interim paper and would hope that we might get some interim budget for that. But now the Jersey scheme has been released I think what we will be able to do is look at that and hopefully it would just be picking that up and dropping it up and Guernsey flying it, so that is why I am a bit more hopeful on that scheme.

Deputy Leadbeater – I thank him for his interjections because I think those have been really useful and helpful in informing the States' Assembly.

2760 Deputy Roffey, again, I know that he wants to see the increase in contributions but as I said I think it will be part of the Committee and we will be looking at that and preparing that policy paper ready for next term's committee, and I hope that he will consider standing and maybe consider standing for this role because I think he would make an excellent president.

2765 Deputy St Pier – I thought that Deputy St Pier would bring up the performance of the Fund. It is something that the Committee has looked at and I am sure he is aware and there have been Members on the Policy & Resources Committee on our Committee since 2016 and I think there was even before and I think we must remind ourselves. I am feeling a little bit beaten up on this one and probably a little bit defensive, sir, but I think the Committee looked at the potential risk and we went back to the 2008 losses that were incurred with the financial crash. So I think what we have tried to do is reduce the potential risk. So we have reduced that potential risk down to

2770 about to 10.5% value at risk of the Funds so if we had an equivalent crash as we did in 2008, and I think we are living in uncertain times at the moment, so who knows what is around the corner, we have tried to reduce that risk down to 10.5% and that is what we have got at the moment.

So when you reduce the risk you reduce the amount that you can actually then get returns on the Fund, and the returns on the Fund have been reasonably good over the years. I think the
2775 December 2018 we did see a loss, but I think P&R funds also saw a loss but they have started to bound back.

But the Funds are invested very differently. I am not precious about holding on to the family silver, in fact I have probably already given away too much of the family silver by agreeing about the Health Insurance Fund and potential Long Term Care Fund being part of ... going over to
2780 Health & Social Care. But I think what we do need, we have talked about this for long enough, we actually now need to be doing something, and I know the governance review is under way at the moment

But I think we must also remind ourselves about that pot of money, that prior to 2007 50% equivalent of the contributions paid into that Fund was actually matched by P&R and that has
2785 now reduced to only 15% from 2008. So I think that is something that does not get mentioned very often and I think it is worth just reminding ourselves that that was a considerable amount that has not been put into those Funds, and we must also remember that the Health Insurance Fund, as has already been mentioned and we have foregone I think it is almost £4 million-£5 million each year for the last four years. So I think we have to bear that in mind when we are
2790 looking at that pot of money.

I think Deputy Tindall has probably – I have already covered some of the things that she commented on. With regard to the work that we are doing with the Latvian community, we have already had a visit from officers from Latvia and we have got a first draft of that agreement and we have got officers from Guernsey going back to Latvia going back to Vega in the next month or
2795 so to hopefully put that agreement to bed and be able to then move forward on that. But then I guess it will be then subject to Privy Council and who knows what is happening and where that will be with what happens in Brexit. But that is an update of where we are on that.

Deputy Dorey, again I think I have touched on what Deputy Dorey has commented on and the performance of the Funds. He was disappointed about the Health Service Fund benefits and again
2800 I think this was touched on by other Members. The £12/£6 grant, we have not done much with it because actually I think we were waiting to work with our colleagues in Health & Social Care to see what the Partnership of Purpose is. We are also, as Deputy Dorey was aware, working on the Family Allowance paper and that is looking at a similar sort of thing. I think we were hoping that we would have progressed that, so that would give us an idea of where we are going on the
2805 £12/£6 grant. But, yes, we have kicked that can down the road and I can only apologise to Members for that.

Deputy Ferbrache talked about changes to the upper limit. I did not really feel he was too negative about the policy paper that we had actually put forward. But I think he is a Member of the 2020 Association; I really look forward to seeing their fiscal policy when it must come out
2810 ahead of the Election next year. But I think we all realise it is not an easy task to balance the books and juggle the finances between the insurance contributions and the Income Tax system.

Deputy de Sausmarez on the paragraph 5.8, I think Deputy Leadbeater has commented on that.

Deputy de Lisle, sir, I think he is already on the campaign trail after his letter in the press
2815 (*Laughter*) today. But he is fair because he did say – (*Interjections*) no, he is right to say we are increasing pensions by 2.4% but then in the Budget there are other cost pressures on pensioner households.

I think it is interesting again and we have had some emails over the past few weeks, myself and Deputy St Pier, sir, have had emails about the unfairness sometimes of the Budget and what we
2820 do on pensioners.

2825 But it was an interesting report that Health & Social Care brought out recently and that is the Joint Strategic Needs Assessment for over-50s because in that report it says people over 65, 81% own their own properties, 29% of that 81% are on an income less than £20,000 so they will really be struggling and I think those are the people that Deputy de Lisle is talking about, and we know that they struggle. But interestingly enough 5% have an income of over £100,000 a year. So that is the problem that we have got, it is that we have got groups of pensioners that are on very diverse incomes and that is what makes all of this very difficult.

2830 Deputy de Lisle also talked about the £12/£6 grant and I would just remind him, sir, that we have got the NICE drugs that will be coming out of that pot, so that will put a huge pressure on that Fund, so although we might have some savings this year we are going to need the majority of that if we do agree with some of the NICE funding of the drugs. So I would be inclined to keep our money where it is so that we have got some money to do that.

2835 Deputy Merrett, I think I have probably covered off most of the questions that she asked. She talked about fairness, and I think that is why we have introduced this Proposition to be paying pensioners some part of their pension, so that when they come out they have that small sum of money that they can make a new start. The Release on Temporary Licence gives those under pension age the opportunity to work. Not all of them take advantage of that but we are trying to bring some fairness and some reasonableness into this.

2840 Sir, I will not comment on Deputy Gollop. (*Interjections*) Well, I think he is quite supportive of the Committee – for a change! (*Laughter*)

Deputy Trott talked about the cost between how much it costs to keep someone in prison and I thank him for that information, because I think that is important –

I will give way to Deputy Lowe.

2845 **Deputy Lowe:** Thank you very much for giving way, Deputy Le Clerc, because I was waiting to see if you were going to get round to Deputy Trott. Because Deputy Trott has yet again misled the Assembly by saying that prisoners have Sky. They do not have Sky, they do not have the internet and in fact the access that they do have, the restricted access, is for their learning which, believe it or not, the Prison – and I really welcome you coming down and being updated on how the Prison operates Deputy Trott because it is all about rehabilitation. It is not a case of locking them up and throw away the key which perhaps some would like. It is about rehabilitation and for the access now for them to be able to continue their education in their cells is welcomed. There were over 100, it was about 150, awards and certificates for qualifications that they have got in this last year.

2850 I think to send out that message that it is wonderful in the Prison, they have got Sky, they have three or four meals a day, I think it is time you actually came down and had a look and spoke to the prisoners of how they welcome the way they are treated in the Prison to rehabilitate them and to get them into the work force; and are very grateful for the report that Deputy Le Clerc has got, because we have recognised that prisoners that come out when they have the opportunity to pay a deposit on property to get into the rent and it is a way forward ... so I thank you for that.

2860 **Deputy Le Clerc:** Thank you, Deputy Lowe.
Yes, I will give way to Deputy Trott.

2865 **Deputy Trott:** It is a rather odd way of doing it, sir, but I thank Deputy Le Clerc for that.
I am delighted that they do not have Sky TV and it is just an educational facility, but the substantive point is that each prisoner costs this community £45,000 or £46,000 per year. So when someone commits a crime against this society which the courts consider warrants a custodial sentence the cost on the taxpayer is enormous and that is the point. The details around that are really irrelevant. I am delighted they get three square meals a day as well and I know there are choices amongst other things. But really those things are not the key point, the key point is it is an

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enormous cost on this community, and any way of mitigating against that cost must, I believe, be a good thing and I suspect will be a popular point within the community.

Deputy Le Clerc: Thank you, Deputy Trott.

2875 A final couple of points. Deputy Hansmann Rouxel, I have answered the first question and I thank her and I think we do need to get back to basics and know the cost of that basket of goods.

The third sector, we do rely on third sector volunteers and I have really got a concern because we brought in a Longer Working Lives paper, we know that people are going to be working to 70 – well those that can afford to retire early will do but there will still be a lot of people working through to 70 – because they rely on the States' pension.

2880 So I do not know where our pool of volunteers are actually going to come from over the next 10 years or so because I think we are going to struggle. But social credit is something that I have looked at in the past, and actually Deputy Soulsby mentioned this during the Supported Living & Ageing Well Strategy meeting. I think it is something that we definitely should be considering, so I thank her for mentioning that today.

2885 Self-employed contribution rate, I think that again is something that has always been a concern for the Committee – how high the self-employed rates are – and actually they do not receive all the benefits out of the Insurance Fund that other people do. But I think it would be part of the fiscal review that we will be undertaking with Policy & Resources, but I think we have got to also remember that if you give allowances to those self-employed that income has to be replaced from somewhere, so it will have to be passed on to somebody else. But again I think that is part of that overall fiscal review that needs to take place.

2890 Sir, Deputy Oliver talked about table 4 on page 8, the self-employed people voluntary overseas contribution that is for people living overseas that want to still get – well we used to call it a stamp years ago and some people still call it a stamp – so it is to enable you to still have your tick in the box for your old age pension so that is how much you would have to pay.

2895 Then Class 3 is non-employed so we are saying that if you are overseas you have to pay a higher rate but if you are actually living in Guernsey you pay a lower rate. So that is what it is about –

2900 I will give way to Deputy McSwiggan.

Deputy McSwiggan: Sorry, I just hope that Deputy Le Clerc would not mind reinforcing it is a contribution for people who live overseas rather than a contribution to Overseas Aid.

2905 **Deputy Le Clerc:** Yes.

Sir, Deputy Oliver asked another question but I was not sure what it was, I did not catch it because there were other things going on at the time. So if she would like to repeat it, sir, I am happy to try and answer.

2910 **Deputy Oliver:** It was just why didn't you come to Home Affairs regarding the Prison thing and then we could have worked together about it?

2915 **Deputy Le Clerc:** We have had meetings with Home Affairs on the Prison and actually we had the Assistant Governor in to Committee meetings so we talked it through with the Assistant Governor.

I think, sir, that is all the questions answered.

I will give way to Deputy de Lisle.

2920 **Deputy de Lisle:** Sir, I had asked with regard to the percentage of pensioners that receive the full pension, and I have got the answer from the department now: it was only 27% receive the full pension.

2925 **Deputy Le Clerc:** Yes, sir, and I thank Deputy de Lisle for giving that information because I did not have time to look it up. I think again that is important to say that, yes, there is 27% receiving a full pension but we must remind ourselves that actually when we look at our next report, when we come back in November, that actually a lot of our Income Support does go to top-ups for pensioners. So that is how we give that support: it is through the general revenue rather than the Insurance Fund.

I will give way to Deputy Queripel, sir.

2930 **Deputy Lester Queripel:** Sir, I thank Deputy Le Clerc for giving way.

I just need clarification please on one of my questions. The question being how much can a prisoner earn in their last 18 weeks in prison. I recollect Deputy Le Clerc saying that a personal allowance of £14.60, I think it was, but the question was how much can a prisoner actually earn in their last 18 weeks in prison. Can you clarify that please?

2935 **Deputy Le Clerc:** Sir, I do not think anybody could answer that question because how much a prisoner can earn would be on the Release on Temporary Licence. Now I am just thinking back to when I was on the Home Committee, the Release on Temporary Licence means that some of those prisoners will go back to working the job that they were doing before they went into prison. So I expect the employer will pay them the wage that they earned before they went into prison, but they do not receive that money during those 18 weeks I understand that goes into an account for them, so it is not that they can access it straight away.

I will give way to Deputy Leadbeater.

2945 **Deputy Leadbeater:** Sir, I thank Deputy Le Clerc for giving way.

2950 Just to answer Deputy Lester Queripel's question, a person of pensionable age and a person under pensionable age can earn exactly the same in the last 18 weeks of their sentence. It is misleading in 5.8, unfortunately, that it says that they cannot access the ROTL; scheme they can access the ROTL scheme, they can earn and go back into employment same as anybody else if they so wish under 65.

Deputy Le Clerc: Sir, it can be at any rate of pay that that employer wants to give to them. It is not a set rate of pay other than it would have to be minimum wage.

I will give way to Deputy Queripel.

2955 **Deputy Lester Queripel:** Sir, I thank Deputy Le Clerc for giving way.

Sir, it says small wage in the policy letter so I am totally confused now. By small wage it sounds like a set figure.

2960 **Deputy Le Clerc:** Sir, I think this is getting too complicated on the floor of the Assembly and I think it would be much better if we respond to that question in writing, both the ESS Committee and the Home Committee, because I think it is an answer probably between the two committees.

But I would urge everyone to support the recommendations in the report, sir.

Thank you.

2965 **The Deputy Bailiff:** Members of the States, there are nine Propositions. I have noted that there is a request for a recorded vote on Proposition 8. Are there any requests for other Propositions to be made subject to a recorded vote?

2970 What I am minded to do, Members of the States, is to take Propositions 1-6 together then on the basis that that is all money. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare Propositions 1-6 duly carried.

I will take Proposition 7 separately on the basis that this is to rename the old age pension as States' pension. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I therefore declare Proposition 7 duly carried.

2975 Deputy Greffier, we will move to a recorded vote on Proposition 8 please.

There was a recorded vote.

The Deputy Bailiff: Members of the States whilst the votes on that are being counted because it does not affect your vote on Proposition 9, those in favour of Proposition 9; those against.

Members voted Pour.

The Deputy Bailiff: I declare Proposition 9 duly carried.

Carried – Pour 20, Contre 17, Ne vote pas 0, Absent 3

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Soulsby	Deputy Prow	None	Alderney Rep. Roberts
Deputy de Sausmarez	Deputy Oliver		Alderney Rep. Snowdon
Deputy Roffey	Deputy Ferbrache		Deputy Laurie Queripel
Deputy Tindall	Deputy Kuttelwascher		
Deputy Brehaut	Deputy Leadbeater		
Deputy Tooley	Deputy Mooney		
Deputy Gollop	Deputy Trott		
Deputy Parkinson	Deputy Le Pelley		
Deputy Lester Queripel	Deputy Merrett		
Deputy Le Clerc	Deputy St Pier		
Deputy Stephens	Deputy Meerveld		
Deputy Fallaize	Deputy Lowe		
Deputy Inder	Deputy Smithies		
Deputy Hansmann Rouxel	Deputy Graham		
Deputy Green	Deputy Paint		
Deputy Dorey	Deputy Dudley-Owen		
Deputy Le Tocq	Deputy de Lisle		
Deputy Brouard			
Deputy McSwiggan			
Deputy Langlois			

2980 **The Deputy Bailiff:** Members of the States, the result of the vote on Proposition 8 is that there voted *Pour 20, Contre 17*, 3 absentees, and therefore Proposition 8 is also carried. Indeed all nine Propositions have been carried.

STATES' TRADING SUPERVISORY BOARD

**VII. General Pilotage –
Retirement Age of General Pilots –
Propositions carried**

Article VII.

The States are asked to decide:

Whether, after consideration of the policy letter entitled "General Pilotage - Retirement Age of General Pilots" (dated 25 July, 2019), they are of the opinion:

- 1. To approve the preparation of an amendment to the Pilotage Ordinance, 1967 to remove the requirement that a general pilot retire as such on reaching the age of 65, and to provide that a general pilot's pilotage licence shall continue to be valid for so long as he or she holds a valid Seafarer's Medical Report and Certificate.*
- 2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.*

2985 **The Senior Deputy Greffier:** Article VII, States' Trading Supervisory Board – General Pilotage, Retirement Age of General Pilots.

The Deputy Bailiff: I invite the President, or is that supposed to be the Vice-President, to open the debate on this matter. Is it you, Deputy Ferbrache, or will it be Deputy Smithies? Deputy Smithies.

Thank you.

Deputy Smithies: Thank you, sir.

2995 The reason that I am standing to open the debate on this policy letter instead of the more familiar figure of the President of the States' Trading Supervisory Board is that I am one of the Board's representatives on and President of the Guernsey Pilotage Board.

3000 I hope this is one of the least contentious pieces of business on this agenda. The policy letter is, I submit, very clear as to why it is being brought before the States today and I hope that Members will see fit to support its passage and approve the Propositions to prepare amendments to the Pilotage Ordinance, 1967 and to direct the preparation of the necessary legislation.

I would like to draw attention to three important matters in connection with the Propositions. Firstly, is the matter of the Longer Working Lives policy as debated here on 7th February 2018. We have touched on old age pensions and States' pensions. I think there should be no problem with the Longer Working Lives policy as applied to pilots who work in the Harbour.

3005 Secondly, it is the intention of the revisions that any general pilot working beyond the age of 65 will have to obtain a certificate of fitness renewable annually.

Thirdly, there will be no increase in public expenditure.

3010 In addition, I would like Members to consider the regrettable effect of losing the considerable experience gained in a working career as a pilot if the licence holder is forced to retire involuntary on reaching an arbitrary age barrier (**A Member:** Hear, hear.) even though they are perfectly effective in discharging their duties competently, correctly and capably.

I commend this policy letter.

The Deputy Bailiff: Deputy Gollop.

3015 **Deputy Gollop:** Sir, actually it raises quite a lot of very controversial issues, this policy letter. It reminds me a bit of the Board of Administration in a way when we used to do micro ...

3020 Well of course the first is that actually the STSB have jumped the gun a little bit inasmuch as I know most Members will be very aware Employment & Social Security have been carrying out extensive consultation and thinking about discrimination of age due to Deputy Graham and many other voices and of course this is entirely acceptable and congruent with that.

3025 But it raises one or two points because maybe some of us would like to see the return of Deputy Paint as a harbour pilot, but I do not believe this is retrospective, so I think if you have retired at the age of 65 it is most unlikely even if you were able and willing to that you could come back. I suspect this is for those who are currently approaching the age rather than those who have retired and would then be able to rectify their situation. That is the first point.

3030 The second point, which genuinely took me by surprise given the fact that Guernsey has such an impressive international identify and maritime and nautical history, is that there is a medical fitness requirement, a clear requirement within the Port Marine Safety Code and International Maritime Organisation that cannot be obtained in Guernsey because they can only be issued by a maritime and coast guard agency approved doctor and there are no such doctors on Guernsey. So presumably harbour pilots and associated professionals have to gain their certificate of medical fitness, whether of the age or not, from some other jurisdiction and I wondered whether that will be of concern.

3035 So my points really are how retrospective will this be, or will it just apply to people who in future will reach the age of 65, and how does the STSB ensure that the medical fitness can carry on when there apparently is no direct opportunity on Island to gain the requisite medical fitness?

3040 **The Deputy Bailiff:** Deputy Graham.

Deputy Graham: Thank you, Mr Deputy Bailiff.

I know Members of the States would be disappointed if I did not stand to commend the Board on this sensible initiative.

3045 I think there is now a general acceptance of the wisdom that the days of statutory arbitrary age limits as an appropriate way to bring appointments to an end are well and truly behind us.

I would urge all Principal Committees and indeed Boards and smaller committees to do an audit before this term ends just to make sure that tucked away in some corner there is not some old legislation that relates to these arbitrary age limits.

3050 Of course I live in constant anxiety that in some dark corner of the Education, Sport & Culture Committee there is some legislation hidden away that does precisely that, but there we are.

I thought this was going to be plain sailing until Deputy Gollop mentioned controversy and my first reaction was, oh, no, what difficulties is he going to find in this, but I think he actually makes quite a sensible point on two counts really.

3055 I suppose it is possible that a seasoned pilot would decide at the age of 65 to take the sort of adult version of a gap year or two and then perhaps wish to resume, but equally I suspect that some mariners who will not necessarily have been employed for a lifetime as pilots would have enough experience tucked away behind them to actually qualify at a relatively late time of their lives.

3060 So if the age limit could be not only retrospective but would not affect those who might wish to start a new career fairly late in life that would make me even happier.

The Deputy Bailiff: Deputy Soulsby.

3065 **Deputy Soulsby:** Sir, yes, I find the policy letter quite odd to be honest. It really follows on from something that Deputy Graham just spoke about. It is not that I disagree with the policy letter in any way, I totally support it, it supports Longer Working Lives. I have no problem with looking at what it is trying to achieve.

3070 But I was surprised that there was no mention on anything to do with those trading entities of which STSB has oversight. It seems to be just popped out of thin air, as just, 'Oh, look, what we have got. You cannot be over 65 to be a pilot, so we had better change that.' It did not look like any audit of those bodies has actually taken place. So I have no idea whether other workers have to retire at 65 either by law or terms of employment. It is unclear whether an audit has been done and even if it has not I would have expected at least some reference to whether STSB have considered this or not.

3075 Because I do not think you can really look at one profession in isolation. If you are going to do that and it came to the Committee's attention, I would expect them to at least question whether this is something that we need to look further at in terms of our mandate.

3080 So I would like to know from the STSB Vice-President whether any work has been done to determine the current situation regarding entities to which it has oversight? If it has, what is his Committee doing about it and, if not, can he confirm that this work will be done to ensure consistency in areas across the workforce?

Thank you.

The Deputy Bailiff: Deputy Paint.

3085 **Deputy Paint:** Sir, I was not going to speak on this matter at all because I have spoken to the pilots and they seem to have accepted that the age of retirement has to go up.

3090 But years ago, many years ago, it used to be for pilots to retire at 70. Now there was no pension and at 70 they were considered to be past it. But times have changed. (*Interjections*) (**A Member:** Hear, hear.) I will be 72 this year and I still feel that I could do the job if I had to if there was a disaster.

3095 But a lot of things people did not actually realise is that when you get a Master Mariner's Certificate now it does not last for life. It lasts I think for five years then it reduces as you get older. I think after you are about 60 you have got to have a medical certificate anyway. Fortunately, here the Law is a little bit different for the pilotage. As long as you can provide a medical certificate you can continue to be a pilot and that is fair.

3100 If you had to take the UK certificate for your Master Mariner's Certificate at the moment I understand it costs about £3,000 to do it. There is no MCA Certification over here anymore; mine were done over here. So somebody has to go to England, spend a while in the UK to have the medical certificate passed and then return – so hotels, transport and everything has got to be paid. Remember Guernsey pilots are self-employed. They are not employed by the States, they are self-employed within the Ordinance that is provided purely for parliament. So I will not say any more, I mean time is going on but the pilots appear, after speaking with them, they have accepted the situation.

3105 Thank you.

The Deputy Bailiff: I invite the Vice-President of the Board, Deputy Smithies, to reply to the debate.

3110 **Deputy Smithies:** Thank you, sir.

It proved a little more controversial than I thought.

Deputy Gollop, there is no barrier to a repeat performance should a pilot who has retired wish to resume his duties. Deputy Paint could indeed reapply to the Examinations Board which is a sub-committee of the Pilotage Board, should he wish.

3115 The certificates – I did wonder if that might be picked up on. They are completely interchangeable, the thing with the ENG1 Certificate which is referred to is it is horses for courses, it is designed to support deep sea mariners often without access to medical care and who are

directly responsible for the safety of their vessels, unlike a harbour pilot who provides only advice and is indemnified against that liability.

3120 ML5, the one which we are recommending the use of, is applied elsewhere across the States in other jobs, and it is also to the local Herm and Sark Masters who are indeed special pilots rather than general pilots. It is also accepted for harbour pilots in a number of ports in the UK. The fact is that there is no doctor qualified to issue an ENG1 in Guernsey and only one doctor is available in Jersey who could provide that certificate.

3125 There are a small number of minor medical conditions which would preclude the issue of an ENG1 but not an ML5. So ML5 is slightly less stringent because it is being used for less stressful jobs than deep sea mariners might encounter. I hope that satisfies Deputy Gollop.

I thank Deputy Graham for his kind support and again I refer to the fact that if anyone should wish to take up the job of a general pilot they can submit their name to the Examinations
3130 Committee and indeed they will be treated the same as a 20-year-old.

Deputy Soulsby, well we have got to start somewhere, and I think perhaps a smooth passage of this policy letter may move things forward in other areas. There is no work really being done on other areas within STSB but that does not mean that we are not receptive to them.

3135 One point which I did not bring up at the beginning: there is actually a clear need for experienced pilots. The pool of pilots, if I can refer to it in that way, is actually diminishing, so we do need to keep pilots over 65 on the books.

Deputy Paint, thank you very much indeed. You are quite correct and I thought you would have referred to some of your ex-colleagues, the pilots, the existing pilots are fully supportive of this measure.

3140 Indeed, Deputy Paint and I are of a similar age, and fitness is an important factor. I can remember at the age of 20, I think, being taken down to St Martin's Point on the pilot boat and unceremoniously dumped on a rope ladder to shin up the side of an East German liner, the Volkerfreundschaft, which was making a visit to Guernsey, and being absolutely terrified. There was no previous training, you just had to get up there. I was acting as a ship's agent at the time.

3145 So thank you very much for your expert comments, Deputy Paint, and I trust that this fairly uncontroversial measure will be passed.

The Deputy Bailiff: Members of the States, there are two Propositions. They go together, so those in favour; those against.

Members voted Pour.

3150 **The Deputy Bailiff:** I declare both Propositions carried.

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

**VIII. Proxy Voting for Parental Absence –
Debate commenced**

Article VIII

The States are asked to decide whether, after consideration of the policy letter entitled "Proxy Voting for Parental Absence" dated 9th September, 2019, they are of the opinion:

1. To agree that the Rules of Procedure of the States of Deliberation and their Committees should be amended with immediate effect as follows:

a) for Rule 26.(2), substitute:

"(2) A Member may vote only from his or her seat in the States' Chamber (except where the Member has been issued with a certificate by the Presiding Officer to vote by proxy). In presidential elections where there are two or more candidates, a Member may vote only from a seat in the States' Chamber. Immediately before announcing his or her vote in a division (appel nominal), a Member must switch on his or her microphone and switch it off again immediately after he or she has voted."

b) in Rule 26.(6), delete the words 'present and',

c) insert the following paragraphs immediately after paragraph (2) of Rule 26. and renumber the existing, subsequent paragraphs accordingly:

"(3) A Member may, by reason only of absence from a Meeting of the States of Deliberation for the purpose of childbirth or care for an infant or newly-adopted child, by written notice in the form set out in Schedule 4 to these Rules arrange for their vote to be cast in accordance with this Rule by another Member acting as a proxy (a proxy vote) for a maximum duration of six continuous months.

(4) A proxy vote may be cast on the following propositions:

a) original propositions (excluding any propositions from the Presiding Officer);

b) secondary propositions; and

c) amended propositions.

(5) A proxy vote may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member nominated as a proxy, has been submitted to HM Greffier before the commencement of the States Meeting in question.

(6) A vote cast by a proxy shall be clearly indicated as such in the Official Report and voting records published."

d) at the end of Rule. 26, immediately after paragraph (12) (as renumbered in accordance with paragraph c) of this Proposition), insert the following paragraph:

"(13) The provisions of this Rule that enable a Member to vote by proxy do not apply to the Alderney Representatives;

Provided that:

an Alderney Representative may act as a proxy for another Member, other than a Member who is an Alderney Representative."

e) in Rule 30. (1) at the end of the definition of "Member", insert "(and note qualification in Rule 26 (13) for purposes of proxy voting)", and

f) insert the 'Application for Proxy Voting for Parental Absence' form at Appendix I as Schedule 4 to the Rules of Procedure of the States of Deliberation and their Committees.

The Senior Deputy Greffier: Article VIII, States' Assembly & Constitution Committee – Proxy Voting for Parental Absence.

3155

The Deputy Bailiff: I invite the President of the Committee, Deputy Inder, to open the debate.

Deputy Inder: I will certainly give it a go, sir.

3160 Members, the Committee is pleased to present this policy letter to the States today which proposes the introduction of proxy voting for Members who are absent from a meeting of the States for the purposes of child-birth, care of an infant or a newly adopted child, for a period of up to six months.

Members may be aware that a pilot scheme was introduced in the House of Commons to allow new parents to have a proxy vote earlier this year. The proposals in this policy letter largely mirror that scheme.

3165 As we look to the General Election in 2020 we must look to see how we can reduce the barriers to people standing for election and serving as Deputies. The Committee believes this is a small step in assisting Members who may become new parents during a political term to manage their political and personal responsibilities.

Our proposals would entitle but not require Members to be able to discharge their responsibilities to vote in the States of Deliberation by proxy.

3170 There is an expectation that Members will attend every States' meeting unless they have a reasonable excuse as to why they are not present. The Commonwealth Parliamentary Association's document – and I will quote the recommended benchmarks for code of conduct applying to Members of Parliament – has a specific section on attendance which reads:

Every Member shall attend every sitting of the House in accordance with practice of the House except with reasonable excuse or in the case of extended absences if excused in accordance with the practice of the House.

In short, you seek permission.

3175 At present Members may be absent from a meeting because they are engaged in other States' business, they are indisposed, or for personal reasons.

It has previously been suggested that proxy voting be extended for all Members and whilst this was discussed when this policy letter was being drafted the Committee concluded it would not support this. Looking at other jurisdictions very few enable proxy voting generally in that way.

3180 Members, this is not a slippery slope to a time when Deputies will vote from home or on States' business. This is a proposal to allow proxy voting for new parents for a time limited period in order to reduce one of the potential barriers to Members standing and serving.

3185 If I can speak personally, sir, on the subject. We as Deputies may disagree on many issues, we may fall out of love with one another, or even dislike one another on occasion – okay, maybe we were never in love with each other in the first place (*Laughter*) but it is for effect! – but the votes that we cast are the great leveller. My vote is equal to any other Member of this Assembly. The one thing that is bestowed upon us by the electorate, those that put us here, is our ability and responsibility of us as individuals to cast our vote on any Proposition.

3190 Even though proxy voting for parental leave is a relatively new development with the UK and several other jurisdictions leading the way, as a States we recognise the value contributed by politicians with young families, and we believe there is great merit in following suit with the UK and introducing proxy voting for parental leave only, and it is for parental leave only, this is no slippery slope.

3195 This will allow States' Members to balance the important demands of their home life with an ongoing ability to contribute to democratic debate during the unique period of parenthood, of new parenthood.

3200 In a modern Guernsey and a modernising Assembly this policy letter goes some way towards sending a message to our people and future candidates that we recognise that on occasion you may need to take parental leave; we understand this; there is nothing to be ashamed of; you do not have to make any excuses; we support you and value the importance of your vote.

I ask Members to support the Propositions as drafted.

Thank you.

The Deputy Bailiff: Deputy Stephens.

3205

Deputy Stephens: Thank you, sir.

A conversation earlier today with Deputy McSwiggan has suggested to me that my arguments are, to some extent anyway, contradictory, but I am going to say them anyway.

3210

I fully expected to have sympathy with proxy voting for parental absence. I fully acknowledge the need of infants for continued care and close contact with their parents and *vice versa* following birth or adoption.

3215

My own experience as a young mother was that there was no provision of any sort of maternity leave and my choice was either to leave work or leave my children and this was not good. But it is not the issue of parental leave that concerns me but the restriction of proxy voting to that circumstance.

3220

Now Deputy Inder has tried to reassure us that there is no slippery slope here, but I think supporters of the changes in these Rules have to show why there should not be similar allowance for Members who, for instance, are acting as carers for older children, or for a relative, or for instance, if a Member needed to take bereavement leave. For me, the term family-friendly encompasses all members of the family at all ages and all stages.

Then if I pursue that thought a little further why not include proxy for Members who are absent on States' business, for those Members who are pursuing their responsibilities off-Island on States' meeting days.

3225

Now also rather contradictorily I also have a strong feeling that it is important for Members to listen to debate (**Several Members:** Hear, hear.) as well as to read policy letters and to do the research and in that way fully construct a rounded opinion and view of the decisions that we have to make in this Assembly.

3230

So I will listen to the rest of the debate but, firstly, I am not satisfied that proxy voting for parental absence in isolation from any other proxy voting might not be discriminatory, and secondly, I am not satisfied that decisions can be fully made without listening to debate.

So in one way I would like proxy voting to be extended but in another way I do not like proxy voting at all. (*Laughter*) But I think really it is the narrowness of the category that concerns me.

But as I said, I will listen to the debate, hope for more help and case my vote according to what I hear.

3235

Thank you, sir.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, sir.

3240

I am coming from a similar position to Deputy Stephens.

Instinctively I want to support this for the reasons that Deputy Inder put forward, but I have two problems with it.

3245

One is the parallel with the House of Commons and the experiment there because I think the way we do government is utterly different. (**Several Members:** Hear, hear.) For many years the House of Commons have allowed pairing, for instance, so I could find somebody in this Assembly I tend to be on the opposite side of quite often – I don't know, Deputy Paint or Deputy Ferbrache – and say, 'Look, I am going to go on holiday so you don't go to the States – that is how it works in the UK, so why shouldn't we do it here?' and if Deputy Ferbrache wants to swan off somewhere then I will go and do my gardening because we will cancel each other out. But actually while that works with a government and an opposition and whipped Myrmidons going through the lobbies, it does not work in our system because there is actually quite a lot of shifting alliances and we sometimes agree with each other although we sometimes do not.

3250

Likewise, I think our system means that you change your mind far more often listening to debate than it would do if you were whipped. I am not saying that nobody ever changes their

3255 mind in the House of Commons listening to inspired speeches I just think it happens more often here.

I think it is more likely that somebody that is offering a proxy vote I know they can listen to the wireless and they can desperately email in to those that have devices and say, 'I have now listened to the debate on this amendment and I think I want to do this although I told you yesterday I wanted to do that.' I think it is far more likely that – and I know equally there could be people sitting in this Assembly who are not paying a blind bit of notice to what is being said, but I think there is more chance of them actually assimilating what has been said and changing their vote than if they were at home doing whatever.

3265 So I worry about it for that reason, but also Deputy Inder said twice this is not a slippery slope. When you have to emphasise something it means that you know it probably is. In this case I think it must be a slippery slope. (**A Member:** Hear, hear.)

Now when people have used the slippery slope argument I have always said but it is the control of this Assembly and if they do not want it to be a slippery slope when it comes back say no. But you would need a logical reason for saying no. As Deputy Stephens says, I could not muster up a good logical reason for saying that it is fine to proxy vote because you have got a caring role as a new parent but not – well I will give myself as an example: for four months this year I could hardly appear in this Assembly because I had a full-time caring role, how was that different? I would have loved to have had a proxy vote in many ways, I accepted that I did not. I think we have to go one way or another.

3275 Now my episode is passed but I am talking about other people who may be in a similar position in the future. What about people who are indisposé? Some of them might not be able to come here for several months but they may not be so far gone they cannot listen to the wireless and, yes, Deputy Le Pelley was a classic example maybe. Why then, where is the logic in saying that we will not extend it to them?

3280 What about our friends from Alderney when the fog comes down, or the Dorniers go tech – I know that does not often happen but I am told it does occasionally – (*Laughter*) should we allow them proxy votes? If we do that what about us lot when we have been on holiday and we get fog bound in Gatwick on the way home?

3285 Then as Deputy Stephens says, the next step is, 'Oh, well, Deputy so-and-so is really important, he is off on the Raving Looney Party conference and we need to be represented there obviously or whatever.' I do not know why I am looking at Deputy Le Tocq but some people are off-Island (*Laughter*) on official business more than others. Then it gets extended to these CPA jamborees that happen to clash sometimes with the serious business in this Assembly.

3290 I think, yes, we do not have to make it a slippery slope, we could keep it just for people who have the onerous job of looking after a new born baby or a newly adopted baby but why would we? Where is the logic of that?

3295 So I think we have to ask ourselves, and I am going to listen to the debate, either we will carry on and finish it today or we will do it tomorrow, I don't know, because going back to where I started I am actually open to persuasion, I am in an Assembly where it is actually useful for me to be here because I will listen and try and respond and be reasonable to what is being said.

But I think we need to go one way or the other here. I think either we say proxy voting for anybody that has got a good reason why they cannot be in this Assembly or no proxy voting. That may be hard but actually that is the clear way forward.

3300 I do not think the comparison with the House of Commons is helpful because I think there are lots of things where things that happen there do not translate to here because of the way we do government, with all of us being a part of the executive, is very different.

So that is where I am coming from and some people say it is a cliché, I am in listening mode, but my instinct is we have got to go one way or the other. This is lukewarm and should be spewed out because it is actually doing neither one nor the other.

3305

The Deputy Bailiff: Members of the States, it is just gone half past five and therefore I am proposing that we adjourn to tomorrow morning at 9.30 a.m.

The Assembly adjourned at 5.34 p.m.